

BUSINESS DISPUTE RESOLUTION THROUGH ALTERNATIVE DISPUTE RESOLUTION (ADR): A CIVIL LAW ANALYSIS OF THE EFFECTIVENESS OF NON-LITIGATION MECHANISMS

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Abstract. *This study examines the resolution of business disputes through Alternative Dispute Resolution (ADR) mechanisms, analyzing their effectiveness from a civil law perspective. Amid the limitations of litigation in accommodating the practical needs of business actors, this research investigates several problems, namely the normative foundations of ADR within civil law-based business dispute resolution, the effectiveness of non-litigation mechanisms in resolving business disputes, and the challenges and limitations of ADR within civil law systems. A normative juridical method is employed, combining statutory and conceptual approaches to analyze civil law doctrines, ADR regulations, and relevant legal literature. The findings show that ADR is normatively grounded in the principles of party autonomy, freedom of contract, good faith, and legal certainty, positioning it as an integral component of civil law rather than a mere alternative to litigation. Non-litigation mechanisms prove effective in delivering time and cost efficiency, confidentiality, and the preservation of business relationships, although constrained by power imbalances, enforceability issues, and limited institutional capacity. This study concludes that strengthening ADR's normative framework and institutional integration is essential to enhance its effectiveness in civil law-based business dispute resolution.*

Keywords: *Alternative Dispute Resolution; Business Disputes; Civil Law; Legal Effectiveness; Non-Litigation Mechanisms.*

1. Introduction

In contemporary commercial practice, business disputes are an inevitable consequence of increasingly complex contractual relationships, cross-border transactions, and competitive market dynamics (Marpaung & Baidhowi, 2025). Traditionally, such disputes

have been resolved through litigation before state courts, which emphasize formal procedures, authoritative judgments, and the application of codified legal norms. However, in many civil law jurisdictions, including Indonesia and other countries influenced by continental legal traditions, litigation is often criticized for being time-consuming, costly, adversarial, and insufficiently responsive to the practical needs of business actors. Within this context, Alternative Dispute Resolution (ADR) has emerged as a significant legal mechanism designed to provide business actors with more efficient, flexible, and pragmatic means of resolving commercial disputes outside formal court proceedings (Badri et al., 2024).

From a civil law perspective, ADR mechanisms such as negotiation, mediation, conciliation, and arbitration are increasingly recognized as integral components of modern dispute resolution systems rather than merely auxiliary alternatives to litigation (Agustiani et al., 2024). Civil law systems traditionally emphasize codification, procedural formality, and judicial authority as the primary sources of legal certainty. Nevertheless, the growing reliance on ADR reflects a shift in legal thinking, where effectiveness, party autonomy, and consensual resolution are valued alongside formal legality. In business contexts, ADR is often perceived as better aligned with commercial interests because it prioritizes efficiency, confidentiality, and the preservation of ongoing contractual relationships (Anindito et al., 2022).

The normative foundation of ADR within civil law systems is closely connected to fundamental principles of private law, particularly freedom of contract, equality of parties, and good faith. These principles allow disputing parties to design dispute resolution mechanisms that best suit their commercial interests, provided that such mechanisms do not contravene mandatory legal norms or public order. In this sense, ADR reflects an evolution of civil law from a rigid, court-centered model toward a more pluralistic dispute resolution framework that accommodates both judicial and non-judicial processes. This development highlights the growing importance of non-litigation mechanisms as instruments for achieving not only legal certainty but also practical justice in business relations (Tektona, 2011; Hapsari et al., 2022).

From a legal perspective, the implementation of Alternative Dispute Resolution (ADR) in Indonesia is principally governed by Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution, which provides the legal basis for arbitration and other non-litigation dispute resolution mechanisms, including negotiation, mediation, conciliation, and expert appraisal (Vahzrianur & Siswajanthi, 2025). The implementation of mediation is further regulated under Supreme Court Regulation Number 1 of 2016 on Court-Annexed Mediation Procedures, while the general contractual foundations for ADR derive from the Indonesian Civil Code (*Burgerlijk Wetboek*), particularly the principles of freedom of contract, good faith, and equality of parties. Although these legal instruments formally recognize ADR as a legitimate dispute resolution mechanism, a gap remains between the normative framework and its practical implementation. In practice, inconsistencies in the application of ADR procedures, unequal bargaining positions between disputing parties, varying levels of institutional capacity, and challenges in ensuring the effective enforcement of ADR outcomes continue to limit the realization of the objectives envisaged by the legal framework (Dahliani & Tuasikal, 2025). This normative-practical gap provides the primary justification for examining the effectiveness of ADR from a civil law perspective.

Despite its increasing prominence, the effectiveness of ADR in resolving business disputes remains a subject of critical legal debate. While ADR is often praised for its speed and cost efficiency, questions persist regarding its normative legitimacy, procedural fairness, and enforceability within civil law systems. Concerns arise particularly in relation to power imbalances between parties, limited access to justice, and the extent to which ADR outcomes can deliver substantive justice comparable to judicial decisions. These issues invite deeper analysis of how ADR operates within the doctrinal structure of civil law and whether it adequately fulfills the core objectives of dispute resolution in commercial contexts (Agustiani et al., 2024).

Existing legal scholarship on business dispute resolution frequently focuses on the procedural advantages of ADR, such as reduced caseloads for courts and expedited settlement (Suadi, 2018). However, many studies remain descriptive and pragmatic, emphasizing ADR as a managerial or efficiency-oriented tool rather than as a legal institution embedded in civil law theory. As a result, the broader normative and doctrinal implications of ADR particularly its relationship with civil law principles, legal certainty, and justice are often underexplored. This gap in scholarship suggests the need for a more systematic civil law analysis that situates ADR within the conceptual framework of private law and dispute resolution theory (Prakoso, 2020).

In practice, the use of ADR in business disputes also reflects changing expectations of legal actors. Business entities increasingly seek dispute resolution mechanisms that minimize disruption to commercial activities and preserve long-term relationships (Suadi, 2018; Dahliani & Tuasikal, 2025). Litigation, with its adversarial nature and public exposure, may undermine trust and cooperation between business partners. ADR, by contrast, offers a more collaborative and confidential environment, allowing parties to address disputes while maintaining commercial goodwill (Manopo & Baharu, 2025; Wijaya et al., 2026). Nevertheless, the effectiveness of ADR in achieving these objectives depends on the legal framework that governs its implementation and the extent to which civil law principles are upheld throughout the process.

From a comparative civil law perspective, many jurisdictions have progressively integrated ADR into their legal systems through statutory recognition and judicial support (Amani, 2025). Courts are no longer viewed solely as forums for adjudication, but also as institutions that encourage settlement and recognize the binding force of non-litigation agreements (Tasmin, 2019; Wijaya et al., 2026). This trend illustrates a broader transformation in civil justice, where dispute resolution is understood as a continuum of mechanisms rather than a single, litigation-centered process. Within this continuum, ADR occupies a strategic position that bridges formal legality and consensual problem-solving (Alfidyah, 2025).

The increasing complexity of business transactions and the globalization of commerce further reinforce the relevance of ADR. Cross-border disputes, diverse legal cultures, and differing procedural expectations often make litigation less attractive or less effective. ADR mechanisms, particularly arbitration and mediation, provide a flexible framework that can accommodate these complexities while remaining compatible with civil law traditions. Consequently, the effectiveness of ADR must be assessed not only in terms of procedural efficiency but also in relation to its ability to deliver fair, predictable, and enforceable outcomes.

Based on this background, this study addresses three research questions: (1) What are the normative foundations of Alternative Dispute Resolution (ADR) within civil law-based business dispute resolution? (2) How effective are non-litigation mechanisms, negotiation, mediation, and arbitration, in resolving business disputes? and (3) What challenges and limitations affect the implementation of ADR within civil law systems?

Guided by these questions, this study aims to analyze business dispute resolution through ADR from a civil law perspective, with a particular focus on the effectiveness of non-litigation mechanisms. By adopting a normative juridical and conceptual approach, this study aspires to contribute to the development of a more coherent understanding of ADR as an integral component of modern civil law and business dispute resolution.

2. Research Methods

This study employs a qualitative approach based on normative juridical legal research to analyze business dispute resolution through Alternative Dispute Resolution (ADR) mechanisms from a civil law perspective (Ali, 2014). The research focuses on examining legal norms, principles, and doctrines that regulate non-litigation mechanisms such as negotiation, mediation, and arbitration, in order to assess their effectiveness in achieving efficiency, legal certainty, and substantive justice in business disputes. A statute-based approach is used to analyze relevant legislation governing ADR and business contracts, while a conceptual approach is applied to examine key civil law doctrines, including party autonomy, freedom of contract, good faith, and procedural fairness, which form the normative foundation of ADR within civil law systems (Amiruddin & Asikin, 2012).

The statutory analysis focuses on Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution as the principal legal framework governing arbitration and other forms of Alternative Dispute Resolution in Indonesia. The study also examines the Indonesian Civil Code (*Burgerlijk Wetboek*), particularly the provisions governing contractual obligations and the principles of freedom of contract and good faith, as well as Supreme Court Regulation Number 1 of 2016 on Court-Annexed Mediation Procedures, which regulates mediation within the judicial system. These legal instruments constitute the primary legal sources for evaluating the normative foundations and effectiveness of ADR in business dispute resolution from a civil law perspective.

The research specification is descriptive–analytical, aiming to systematically describe the legal framework of ADR and critically evaluate its role in resolving commercial disputes. Data are derived from secondary legal materials, including statutory regulations, court decisions related to ADR enforcement, and scholarly writings on civil law and dispute resolution. Qualitative legal analysis is conducted through classification, interpretation, and synthesis of legal norms and doctrinal concepts to evaluate the strengths and limitations of ADR in business disputes. Through this approach, the study positions ADR not merely as an alternative to litigation, but as an integral and effective component of modern civil law–based business dispute resolution (Pratiwi et al., 2022).

3. Results and Discussion

3.1. Normative Foundations of Alternative Dispute Resolution in Civil Law–Based Business Dispute Resolution

The normative foundations of Alternative Dispute Resolution (ADR) in civil law based business dispute resolution are deeply rooted in the fundamental principles of private law, particularly party autonomy, freedom of contract, legal certainty, and good faith (Andri et al., 2024). Civil law systems traditionally emphasize codification and judicial adjudication as the primary means of resolving disputes. However, the evolution of commercial relations and the growing complexity of business transactions have prompted civil law to accommodate non-litigation mechanisms as legitimate and normatively justified forms of dispute resolution. ADR is no longer perceived merely as a pragmatic alternative to court proceedings, but as a legally recognized manifestation of private ordering that operates within, and not outside, the civil law framework.

The normative legitimacy of ADR within Indonesia's civil law system is explicitly reflected in Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution, which recognizes arbitration and other consensual dispute resolution mechanisms as legally valid alternatives to litigation (Ardhiyaningrum & Setiawati, 2024; Vahzrianur & Siswajanthy, 2025). The implementation of mediation is further strengthened through Supreme Court Regulation Number 1 of 2016 on Court-Annexed Mediation Procedures, requiring judges to encourage settlement before adjudicating civil disputes. These regulations demonstrate that Indonesian civil law no longer regards litigation as the exclusive avenue for resolving business disputes but instead adopts a pluralistic approach that accommodates both judicial and non-judicial mechanisms. At the same time, the Indonesian Civil Code (*Burgerlijk Wetboek*) continues to provide the contractual foundations for ADR through the principles of freedom of contract, *pacta sunt servanda*, and good faith, thereby embedding ADR within the broader framework of private law rather than treating it as an exceptional dispute resolution mechanism (Syahputri et al., 2026).

At the core of ADR's normative legitimacy lies the principle of freedom of contract (*liberté contractuelle*), which allows parties to determine not only the substantive terms of their commercial relationships but also the mechanisms through which disputes arising from those relationships will be resolved. In civil law doctrine, contracts are binding expressions of the parties' will, and this autonomy extends to the choice of dispute resolution forums, including mediation, arbitration, and other consensual processes (Ariyanto, 2024). ADR thus derives its normative force from the same source as contractual obligations themselves: the voluntary and informed agreement of legally equal parties. As long as ADR agreements do not contravene mandatory law, public order, or morality, they are treated as legally valid and enforceable within civil law systems.

Closely related to party autonomy is the principle of legal certainty, which remains a cornerstone of civil law tradition. While litigation offers certainty through authoritative judicial decisions, ADR contributes to legal certainty in a different, yet equally significant, manner. By allowing parties to design predictable and tailored dispute resolution

procedures, ADR enhances foreseeability in commercial relationships. Arbitration awards, mediated settlements, and negotiated agreements provide binding outcomes that are recognized and enforceable by courts, thereby integrating ADR results into the formal legal order (Diah, 2016; Vahzrianur & Siswajanthy, 2025). From a normative standpoint, this integration demonstrates that ADR does not undermine legal certainty but rather complements it by offering alternative paths to binding dispute resolution.

Another essential normative foundation of ADR within civil law is the principle of good faith (*bonne foi*), which governs both the formation and performance of contracts. Good faith requires parties to act honestly, fairly, and cooperatively, not only in fulfilling contractual obligations but also in resolving disputes (Albar, 2019). ADR mechanisms, particularly mediation and negotiation, are structurally aligned with this principle because they emphasize dialogue, cooperation, and mutual problem-solving rather than adversarial confrontation. In business disputes, where long-term relationships and reputational interests are often at stake, ADR reflects a normative preference for solutions that preserve trust and commercial continuity, consistent with the civil law understanding of good faith as a guiding value in private relations (Agung & Nasution, 2023).

The normative justification of ADR is further reinforced by the civil law conception of justice, which is not limited to formal adjudication but encompasses substantive fairness and proportionality. Litigation, while authoritative, may produce outcomes that are legally correct yet commercially disruptive or socially inefficient. ADR offers a normative response to this limitation by enabling context-sensitive solutions that account for the specific interests and circumstances of the parties. From a civil law perspective, such flexibility does not weaken justice but enriches it, as justice is achieved not solely through rigid application of rules, but through outcomes that balance rights, obligations, and commercial realities (Safitria et al., 2024).

Moreover, ADR aligns with the civil law tradition's increasing recognition of efficiency as a legitimate legal value in commercial contexts. Although efficiency is often associated with economic analysis, civil law systems have gradually acknowledged that excessive procedural complexity and delay in litigation can undermine access to justice. ADR mechanisms respond to this concern by offering faster and less costly processes, thereby supporting the normative objective of effective legal protection. In this sense, ADR contributes to the realization of justice by ensuring that dispute resolution remains accessible and responsive to the needs of business actors.

From an institutional perspective, the normative foundations of ADR are strengthened by its formal recognition within civil law systems. Courts increasingly support ADR by enforcing arbitration agreements, recognizing mediated settlements, and encouraging parties to pursue consensual resolution before or during litigation (Purwantini, 2021). This judicial support reflects an acknowledgment that ADR serves public as well as private interests, including reducing court congestion and promoting efficient dispute management. The interaction between courts and ADR mechanisms illustrates a complementary relationship, where state adjudication and private dispute resolution coexist within a unified civil justice system.

Ultimately, the normative foundations of ADR in civil law-based business dispute resolution rest on a synthesis of classical private law principles and modern demands for

flexibility and efficiency. ADR embodies the civil law commitment to autonomy, certainty, good faith, and justice, while adapting these values to the practical realities of contemporary commerce. By grounding non-litigation mechanisms in established civil law doctrines, ADR emerges not as a departure from legal tradition, but as its logical and necessary evolution in response to changing business and societal needs.

3.2. Effectiveness of Non-Litigation Mechanisms in Resolving Business Disputes

The effectiveness of non-litigation mechanisms in resolving business disputes can be assessed by examining their capacity to deliver outcomes that are efficient, legally certain, fair, and responsive to the practical needs of commercial actors. In the context of business relationships, disputes often arise not merely from legal disagreements, but from differences in interpretation, performance expectations, or changing economic circumstances (Sarmadi, 2009). Litigation, with its rigid procedures and adversarial character, frequently proves ill-suited to address such complexities. Non-litigation mechanisms particularly negotiation, mediation, and arbitration—offer alternative pathways that align more closely with the dynamics of business interactions and the objectives of commercial law within civil law systems.

One of the primary indicators of effectiveness of non-litigation mechanisms is efficiency, both in terms of time and cost (Azis et al., 2024). Court proceedings in business disputes often involve lengthy procedural stages, multiple hearings, and formal evidentiary requirements, which can delay resolution and increase financial burdens for the parties. Non-litigation mechanisms, by contrast, are designed to be procedurally flexible and streamlined. Negotiation and mediation can be conducted within relatively short timeframes, while arbitration, although more formal, generally provides a faster resolution than court litigation. This efficiency is particularly valuable in business contexts, where prolonged disputes can disrupt cash flow, delay projects, and undermine commercial certainty.

Effectiveness is also reflected in the ability of non-litigation mechanisms to preserve business relationships. Unlike litigation, which is inherently adversarial and often results in a clear “winner” and “loser,” non-litigation mechanisms emphasize consensus and mutual accommodation. Mediation, in particular, allows parties to explore underlying interests rather than focusing solely on legal positions. This approach enables solutions that address commercial realities and future cooperation, rather than merely allocating legal liability. In civil law-based business environments, where long-term contractual relationships and trust are central to economic activity, the preservation of commercial relationships constitutes a significant measure of effectiveness (Febriyaldi, 2024).

Another crucial aspect of effectiveness lies in confidentiality. Business disputes frequently involve sensitive information, such as trade secrets, financial data, or strategic plans, which parties may be reluctant to disclose in open court proceedings. Non-litigation mechanisms generally provide a confidential forum, protecting business reputations and proprietary information. This confidentiality not only encourages openness during dispute resolution but also reduces reputational risks that might otherwise discourage parties from asserting their rights (Nurlani, 2022). From a civil law perspective, confidentiality supports the broader objective of legal protection by ensuring that dispute resolution does not generate collateral harm to legitimate business interests.

Legal certainty and enforceability further determine the effectiveness of non-litigation mechanisms. A mechanism cannot be considered effective if its outcomes lack binding force or cannot be enforced. In this respect, arbitration stands out as particularly effective, as arbitral awards are generally final and enforceable through national courts (Ali, 2009). Mediation and negotiation outcomes, when formalized into settlement agreements, can also achieve legal certainty if recognized and enforced under applicable civil law provisions. The integration of non-litigation outcomes into the formal legal system demonstrates that effectiveness is not measured by informality alone, but by the capacity of these mechanisms to produce outcomes that are legally reliable and practically executable.

The effectiveness of ADR in business dispute resolution is also influenced by the coherence of the applicable legal framework. In Indonesia, Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution establishes the legal effect of arbitral awards, regulates their enforcement, and affirms the binding nature of arbitration agreements (Supeno et al., 2019; Ardhiyaningrum & Setiawati, 2024). Likewise, Supreme Court Regulation Number 1 of 2016 provides procedural guidance for mediation conducted within court proceedings, while settlement agreements reached through mediation may obtain executorial force upon court confirmation. These statutory provisions illustrate that the effectiveness of ADR is not determined solely by procedural flexibility but also by the extent to which legislation guarantees enforceability, legal certainty, and procedural fairness. Consequently, evaluating ADR requires consideration of both its practical performance and the adequacy of the legal norms governing its implementation.

Substantive justice is another dimension of effectiveness that merits attention. Business disputes often require solutions that go beyond strict legal entitlements to address commercial fairness and proportionality. Non-litigation mechanisms allow parties greater control over the substance of the outcome, enabling tailored solutions that courts may be unable to provide due to procedural and doctrinal constraints (Hapsari et al., 2022; Yuliani & Nisa, 2023). This flexibility enhances the likelihood that outcomes will be perceived as fair and acceptable by both parties, increasing voluntary compliance and reducing the risk of further disputes. In civil law systems, where justice is understood not only as formal legality but also as balance and proportionality, such outcomes contribute significantly to the perceived effectiveness of non-litigation mechanisms.

Nevertheless, the effectiveness of non-litigation mechanisms is not absolute and depends heavily on contextual factors. The willingness of parties to participate in good faith, the balance of bargaining power, and the quality of facilitators or arbitrators all influence outcomes. In business disputes characterized by significant power asymmetries, weaker parties may face disadvantages in negotiation or mediation, potentially undermining fairness (Febrina & Kapindha, 2014). Similarly, poorly designed arbitration clauses or inadequate institutional support can reduce efficiency and increase costs. These limitations indicate that effectiveness must be assessed not only in abstract terms, but also in relation to the legal framework and institutional safeguards that govern non-litigation mechanisms.

Non-litigation mechanisms demonstrate a high degree of effectiveness in resolving business disputes when evaluated against key criteria such as efficiency, relationship preservation, confidentiality, enforceability, and substantive justice. Within civil law

systems, their effectiveness stems from their compatibility with core private law principles and their responsiveness to the practical realities of commerce. While not without limitations, non-litigation mechanisms offer a dispute resolution model that complements litigation and, in many business contexts, provides a more suitable and effective means of achieving legal certainty and commercial justice.

3.3. Challenges and Limitations of ADR within Civil Law Systems

The implementation of Alternative Dispute Resolution (ADR) within civil law systems, despite its growing recognition and practical advantages, continues to face a number of structural, normative, and institutional challenges that limit its effectiveness in resolving business disputes (Ismail et al., 2022). Civil law traditions are historically characterized by strong reliance on codified rules, formal procedures, and judicial authority as the primary source of dispute resolution. Within this legal culture, litigation is often perceived as the most legitimate and authoritative means of enforcing rights and obligations. As a result, ADR may still be viewed as a secondary or auxiliary mechanism rather than an integral component of the civil justice system, which affects its acceptance and consistent application in practice.

One of the principal challenges of ADR in civil law systems lies in the issue of power imbalance between disputing parties. Business disputes frequently involve parties with unequal economic strength, access to legal expertise, or bargaining leverage. In negotiation and mediation processes, which rely heavily on voluntariness and consensus, weaker parties may be pressured into accepting unfavorable outcomes in order to avoid prolonged disputes or financial strain (Sariono & Wibawanto, 2006). Unlike litigation, where judges are formally tasked with ensuring procedural fairness and equality before the law, ADR mechanisms may lack sufficient safeguards to prevent coercive settlements. This raises concerns regarding substantive justice and questions whether ADR outcomes always reflect genuine consent rather than economic necessity or strategic disadvantage.

Another significant limitation concerns the enforceability and legal certainty of ADR outcomes, particularly in non-binding mechanisms such as negotiation and mediation. While arbitration generally produces final and enforceable awards, the results of mediation or negotiated settlements often depend on subsequent formalization and recognition by courts. In civil law systems that emphasize formal legality, uncertainties regarding the legal status, execution procedures, and remedies for non-compliance may reduce confidence in ADR. Business actors may hesitate to rely on non-litigation mechanisms if enforcement is perceived as uncertain, slow, or dependent on additional judicial intervention, thereby undermining one of ADR's key advantages efficiency (Febrina & Kapindha, 2014).

Institutional capacity and regulatory consistency also pose challenges to the effectiveness of ADR in civil law jurisdictions. In some systems, ADR frameworks are fragmented, underdeveloped, or inconsistently regulated. The absence of clear procedural standards, accreditation mechanisms for mediators or arbitrators, and uniform ethical guidelines can lead to variations in quality and predictability (Asnawi et al., 2024). Such inconsistencies may weaken trust in ADR institutions and reduce their attractiveness as reliable dispute resolution mechanisms. From a civil law perspective,

where predictability and uniform application of legal norms are central values, this lack of institutional coherence constitutes a serious limitation.

Cultural and professional resistance within the legal community further constrains the development of ADR. Judges, lawyers, and legal scholars trained in civil law traditions often prioritize adjudication and doctrinal reasoning over consensual problem-solving (Tasmin, 2019). Litigation is frequently regarded as the “default” or most legitimate avenue for dispute resolution, while ADR is perceived as informal or less authoritative. This mindset may result in limited judicial encouragement of ADR, minimal integration of ADR into legal education, and insufficient incentives for lawyers to recommend non-litigation mechanisms to their clients. Consequently, ADR may be underutilized despite its potential benefits for business dispute resolution (Albar, 2019; Riza & Abduh, 2019).

Another challenge relates to transparency and accountability. While confidentiality is often cited as a major advantage of ADR, it can also function as a limitation, particularly in complex business disputes with broader economic or social implications (Nasoha et al., 2024). Confidential proceedings may obscure patterns of unfair practices, limit the development of jurisprudence, and reduce public scrutiny of dispute resolution outcomes. In civil law systems, where published judicial decisions play a crucial role in shaping legal certainty and doctrinal development, the private nature of ADR may hinder the evolution of coherent legal standards in commercial law.

Furthermore, the effectiveness of ADR is highly dependent on the quality and competence of neutrals, such as mediators and arbitrators. Inadequate training, lack of specialization in business law, or insufficient understanding of civil law doctrines can negatively affect the fairness and efficiency of the process. Unlike judges, whose qualifications and appointment procedures are strictly regulated, ADR practitioners may be subject to more flexible or inconsistent standards (Sariono & Wibawanto, 2006). This disparity raises concerns regarding professional accountability and the overall credibility of ADR within civil law systems.

Finally, ADR faces limitations in cases where disputes involve mandatory legal norms, public policy considerations, or significant third-party interests. Civil law systems often restrict party autonomy in areas deemed to involve public order or mandatory protections (Grasia Kurniati, 2016). In such cases, the scope of ADR may be limited, as courts retain exclusive authority to ensure compliance with imperative legal norms. Business disputes that intersect with competition law, consumer protection, or regulatory compliance may therefore be unsuitable for full resolution through non-litigation mechanisms, highlighting the inherent boundaries of ADR within civil law frameworks.

Despite the comprehensive statutory recognition of ADR, several regulatory challenges remain within Indonesia's civil law framework. Although Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution provides the principal legal basis for arbitration and other non-litigation mechanisms, it contains relatively limited provisions regarding institutional standards, accreditation of ADR practitioners, and procedural harmonization among different dispute resolution institutions (Supeno et al., 2019; Vahzrianur & Siswajanthi, 2025). Similarly, Supreme Court Regulation Number 1 of 2016 primarily regulates mediation conducted within the judicial system and does not comprehensively address the broader implementation of private commercial mediation outside the courts. These regulatory limitations demonstrate that the effectiveness of

ADR depends not only on statutory recognition but also on the existence of clear implementing rules, institutional consistency, and continuous legal reform capable of responding to the evolving needs of modern commercial transactions (Manopo & Baharu, 2025).

While ADR offers substantial benefits for resolving business disputes, its implementation within civil law systems is constrained by challenges related to power imbalances, enforceability, institutional capacity, legal culture, transparency, professional standards, and normative limitations. These challenges do not negate the value of ADR, but rather underscore the need for a carefully designed legal framework that integrates non-litigation mechanisms into the civil justice system with adequate safeguards. Addressing these limitations through regulatory harmonization, judicial support, professional training, and procedural protections is essential to ensure that ADR can function effectively, fairly, and coherently alongside litigation within civil law-based business dispute resolution.

4. Conclusion

Based on the overall discussion, it can be concluded that Alternative Dispute Resolution (ADR) has a strong normative foundation within civil law systems, particularly rooted in the principles of freedom of contract, party autonomy, good faith, and legal certainty, which position ADR not merely as an alternative to litigation but as an integral component of modern business dispute resolution. Non-litigation mechanisms have proven effective in resolving business disputes by offering time and cost efficiency, confidentiality, flexible and context-sensitive outcomes, and the preservation of long-term commercial relationships. Nevertheless, their effectiveness remains constrained by several structural and normative challenges, including imbalances in bargaining power, issues of enforceability especially in non-binding mechanisms limited institutional capacity, resistance within litigation-oriented legal cultures, and inherent limitations in disputes involving mandatory rules or public interests. Accordingly, the optimization of ADR in business dispute resolution requires the strengthening of regulatory frameworks, enhanced judicial and institutional support, improved professional standards for ADR practitioners, and a more coherent integration between non-litigation mechanisms and the civil justice system in order to achieve a balanced realization of efficiency, legal certainty, and substantive justice.

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