

## ABSTRACT

Chairul Lutfi, Student ID Number 10220005, 2014. *Authority of National Sharia Arbitration (BASYARNAS) to Sharia Economic Dispute Resolution after the Constitutional Court Decision Number: 93/PUU-X/2012*. Thesis. Sharia Business Law Department, Sharia Faculty, the State Islamic University of Maulana Malik Ibrahim of Malang. Supervisor: Dr. M. Nur Yasin, M.Ag.

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**Key Words: BASYARNAS, Sharia Economic Dispute, the Constitutional Court Decision.**

Law No. 3 of 2006 on the Authority of Religious Courts to resolve disputes related to Islamic economics is contrary to Article 55 of Law No. 21 of 2008 which contains a legal ambiguity. In Article 55 paragraph (1) and (2) the assessed contradictory because of verse (1) is firmly set in the event of a dispute in the practice of Islamic banking is the authority of religious courts. While verse (2) open space contract bound the parties to choose any justice in the event of a dispute Islamic banking practices. It is considered legal uncertainty which is contrary to Article 28D verses (1) of the 1945 Constitution.

The aim of this research is to determine the authority of the National Sharia Arbitration (BASYARNAS) to the Islamic economic dispute resolution before and after the Constitutional Court decision No.93/PUU-X/2012 and to know the advantages and disadvantages of the authority of the National Sharia Arbitration (BASYARNAS) on Islamic economic dispute resolution after the Constitutional Court decision No. 93/PUU-X/2012.

This research includes the study of law with the normative approach law (statute approach). While the material data used are primary legal materials, secondary and tertiary. Methods of collection of legal materials are with Legal Material Determination, Legal Material Assessment and Inventory Legal Materials.

Dispute resolution through National Sharia Arbitration ( BASYARNAS ) must previously have a written agreement set forth in the form of contract and conditions set forth in Article 55 of Law Number 21 Year 2008 on Islamic Banking and Article 49 subparagraph ( i ) of Act No. 3 of 2006 on Amendments to Law No. 7 of 1989 about religious court which gives the duties and authority of the courts in the Religious Courts to resolve economic disputes and if it is determined sharia arbitration clause, the authority to resolve the dispute to BASYARNAS. Islamic economic dispute resolution after the Constitutional Court's decision to authorizes BASYARNAS 93/PUU-X/2012 to deal with cases of economic disputes sharia. Islamic economic dispute resolution through mediation BASYARNAS an out of court can be justified based on the principle of consensus, the condition does not violate the provisions of the law and in accordance with the provisions of the Shariah. In addition BASYARNAS also have advantages and disadvantages against sharia economic dispute resolution.