

PROSPEK MEKANISME PENYELESAIAN SENGKETA MELALUI ARBITRASE ASING BERBASIS *ONLINE* DI INDONESIA

Lulu Yulianti

Abstrak

Penelitian ini bertujuan untuk mengetahui prospek mekanisme penyelesaian sengketa melalui arbitrase asing berbasis *online* di Indonesia. Adanya arbitrase berbasis *online* merupakan sarana alternatif penyelesaian sengketa yang dinilai lebih efektif dan efisien dari segi waktu dan biaya karena media utamanya adalah internet yang bersifat *borderless* (tidak terbatas antarnegara) sehingga dapat menghemat waktu pengiriman berkas dan mengurangi biaya penggunaan transportasi oleh para pihak seperti biaya paspor, visa, penerbangan dan tempat tinggal sementara yang dibutuhkan selama berada di suatu negara, tempat arbitrase berlangsung. Pengguna jasa arbitrase *online*, dewasa ini sangat diminati terkait dengan pertumbuhan ekonomi dan teknologi yang menimbulkan jenis perdagangan baru, yakni perdagangan dan transaksi elektronik atau *e-commerce* karena putusan arbitrasenya relatif singkat dan tidak memakan waktu panjang. Di Indonesia, belum terdapat regulasi mengenai arbitrase *online* maupun arbitrase asing berbasis *online*. Namun keberadaannya telah diakui dalam Pasal 4 ayat (3) Undang – Undang No. 30 Tahun 1999 tentang Arbitrase dan Alternatif Penyelesaian Sengketa. Di dalam penelitian ini, penulis membandingkan arbitrase asing *online* di Negara Amerika yakni *American Arbitration Association* (AAA) dan arbitrase asing *online* di Negara Cina, yakni *China International Economic and Trade Arbitration Commission* (CIETAC) dengan lembaga arbitrase di Indonesia yakni Badan Arbitrase Nasional Indonesia (BANI) dan regulasi – regulasi yang terkait dengan arbitrase, alternative penyelesaian sengketa dan informasi dan transaksi elektronik yang berlaku di Indonesia agar dapat menjadi suatu gagasan untuk diadakannya regulasi mengenai arbitrase *online* dan pengakuan atas putusan arbitrase asing berbasis *online* di Indonesia,

Kata Kunci : arbitrase *online*, *American Arbitration Association*, AAA, *China International Economic and Trade Arbitration Commission*, CIETAC

THE PROSPECT OF A DISPUTE SETTLEMENT MECHANISM THROUGH FOREIGN ARBITRATION BASED ONLINE IN INDONESIA

Abstract

This study aims to determine the prospect of a dispute resolution mechanism through foreign arbitration based online in Indonesia. The existence of online arbitration as an alternative of dispute resolution is considered more effective and efficient in terms of time and cost because of using the internet as borderless main media (which is not limited to countries) so that it saves time while sending files and reduces the costs of transportation by parties such as passport fees, visa, flight and temporary accommodation needed during stay in the country, where the arbitration takes place. Users of online arbitration services are currently in great demand in relation to economic growth and technology which has led to new types of trade, named electronic commerce and transactions or e-commerce because the arbitration decision is relatively short and does not take long. In Indonesia, there are no regulations regarding online arbitration or foreign arbitration online. But its existence has been recognized in Article 4 paragraph (3) of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. In this study, the authors compared online foreign arbitration in the United States named the American Arbitration Association (AAA) and online foreign arbitration in China, named the China International Economic and Trade Arbitration Commission (CIETAC) with arbitration institutions in Indonesia named Badan Arbitrase Nasional Indonesia (BANI) and the regulations which related to arbitration, alternative dispute resolution and information and electronic transactions that apply in Indonesia so that it can become an idea for the regulation of online arbitration and recognition of foreign arbitration decisions based online in Indonesia in the future.

Keywords: online arbitration, American Arbitration Association, AAA China International Economic Arbitration and Trade Commission, CIETAC.