

Abstrak

Arbitrase memiliki kewenangan absolut oleh Undang-Undang Arbitrase untuk dapat memeriksa maupun mengadili sengketa diluar pengadilan, yang timbul dari sengketa para pihak karena suatu perjanjian ber klausula arbitrase didalamnya, yang dibatasi kewenangannya dalam sengketa perdagangan. Pengadilan Negeri diberikan kewenangan oleh Undang-Undang Arbitrase untuk penanganan sengketa yang perjanjiannya terdapat klausula arbitrase dan akibat hukum dalam memutuskan sengketa perjanjian ber klausula arbitrase. Penggunaan metodologi penelitian ini adalah penelitian hukum normatif. Hasil Penelitian ini, Pertama kewenangan arbitrase dalam penyelesaian perselisihan dalam perjanjian yang terdapat klausula arbitrase, dimana dalam penelitian ini arbitrase tidak memiliki kewenangan dalam sengketa karena tidak termasuk sengketa perdagangan. Kedua kedudukan hukum putusan pengadilan terhadap penyelesaian perselisihan perjanjian yang terdapat klausula arbitrase, dimana mahkamah agung dalam putusannya nomor 17 B/Pdt.Sus-Arbt/2014 tertanggal 29 Oktober 2014, menurut pengadilan merupakan kewenangan Perselisihan Hubungan Industrial. Perumusan klausula arbitrase dalam perjanjian semestinya dibuat secara komprehensif dan jelas agar terhindar dari hambatan dalam pelaksanaan arbitrase dikemudian hari serta memahami pembatasan kewenangan arbitrase dan kewenangan pengadilan dalam perjanjian yang ber klausula arbitrase.

Kata kunci: Arbitrase, Pengadilan, Klausula Arbitrase.

Abstract

Arbitration has absolute authority by the Arbitration Law to be able to examine or adjudicate disputes outside the court, which arise from disputes between the parties due to an agreement with an arbitration clause in it, which is limited by its authority in trade disputes. The District Court is given the authority by the Arbitration Law to handle disputes where the agreement contains an arbitration clause and legal consequences in deciding a dispute over an agreement with an arbitration clause. The use of this research methodology is normative legal research. The results of this study, first, the arbitration authority in the settlement of disputes in an agreement that contains an arbitration clause, in which in this study the arbitration has no authority in disputes because it is not a trade dispute. Second, the legal standing of the court's decision on the settlement of agreement disputes contained in an arbitration clause, where the Supreme Court in its decision number 17 B / Pdt.Sus-Arbt / 2014 dated 29 October 2014, according to the court is the authority of Industrial Relations Disputes. The formulation of the arbitration clause in the agreement should be made comprehensively and clearly in order to avoid obstacles in the implementation of arbitration in the future and to understand the limitations of arbitration authority and court authority in the agreement with arbitration clause.

Keywords: *Arbitration, Courts, Arbitration Clauses*