

KEPASTIAN HUKUM EKSEKUSI PUTUSAN ARBITRASE NEGARA ALASKA TENTANG SENGKETA PERJANJIAN PERKAWINAN WARGA NEGARA ASING DI INDONESIA

ABSTRAK

Dengan menggunakan metode penelitian yuridis normatif, studi mengkaji buku-buku, jurnal, karya ilmiah yang berkaitan dengan penelitian dari sumber kepustakaan. Undang-Undang Nomor 31 Tahun 1999 tentang Arbitrase dan Alternatif Penyelesaian Sengketa, Konvensi New York 1958, Unifrom Arbitrase Act, Uncitral Model Law, dan Arbitration Family Law. Penelitian ini menggunakan metode kualitatif dengan membandingkan Arbitrase Negara Alaska dan Arbitrase Negara Indonesia, khususnya hukum keluarga berupa sengketa perjanjian perkawinan harta bersama dan hak asuh anak beserta akibat hukumnya. Penelitian ini juga dilakukan analisa dengan menggunakan teori kepastian hukum dan tanggung jawab negara sebagai teori yang menjadi landasan untuk menganalisa dan menjawab permasalahan dalam penelitian ini. Perlu adanya kepastian hukum dalam hal eksekusi terhadap putusan arbitrase asing di Indonesia dan perlu adanya tanggung jawab negara terhadap akibat hukumnya ketika putusan arbitrase asing tersebut tidak bisa dieksekusi di Indonesia. Namun berdasarkan hasil penelitian, bahwa Indonesia belum dapat melaksanakan putusan Arbitrase Internasional selain sengketa perdagangan, termasuk studi putusan yang penulis jadikan contoh berupa putusan Arbitrase Negara Alaska terkait sengketa perjanjian perkawinan dengan pembagian harta yang berlokasi di Indonesia. Maka dari itu, disimpulkan bahwa dengan berkembangnya hukum perdata Internasional, perlu adanya penyesuaian dan perbaikan untuk pemberlakuan eksekusi putusan arbitrase internasional di Indonesia, sehingga bukan hanya sengketa arbitrase bisnis saja yang diperbolehkan untuk dieksekusi.

Kata Kunci: eksekusi, arbitrase, asing

LEGAL CERTAINTY FOR THE EXECUTION OF ARBITRATION DECISIONS ON MARRIAGE AGREEMENT DISPUTES FOR FOREIGN CITIZENS IN INDONESIA

ABSTRACT

Using normative juridical research methods, the study examines books, journals, scientific works related to research from library sources. Law Number 31 of 1999 concerning Arbitration and Alternative Dispute Resolution, New York Convention 1958, Unifrom Arbitration Act, UUNCITRAL Model Law, and Family Law Arbitration. This research uses a qualitative method by comparing the State of Alaska Arbitration and the State of Indonesia Arbitration, especially family law in the form of disputes over joint property marriage agreements and child custody and their legal consequences. This research was also analyzed using the theory of legal certainty and responsibility as a theory which became the basis for analyzing and answering the problems in this research. There needs to be legal certainty in terms of the execution of foreign arbitration awards in Indonesia and there needs to be state responsibility for the legal consequences when foreign arbitration awards cannot be executed in Indonesia. However, based on research results, Indonesia has not been able to implement international arbitration decisions other than trade disputes, including the study of decisions that the author uses as an example in the form of Alaska State Arbitration decisions regarding disputes over marriage agreements with the division of property located in Indonesia. Therefore, it is concluded that with the development of international private law, there needs to be adjustments and improvements to the enforcement of international arbitration awards in Indonesia, so that not only business arbitration disputes are allowed to be executed.

Keywords: *arbitration, execution, foreign*