

Studi eksploratif tentang tanggung jawab negara dalam pengalihan kepemilikan satelit di orbit menurut hukum internasional = Explorative study in the state responsibility for transferring of satellite ownership in orbit based on international law / M. Reiza Syeilendra Permana

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Abstrak

Pengalihan kepemilikan satelit di orbit merupakan fenomena yang kemudian lahir akibat perkembangan komersialisasi antariksa. Satelit yang ditempatkan di orbit didaftarkan atas nama negara, sehingga adanya pengalihan kepemilikan menyebabkan isu yurisdiksi atau pengendalian dan tanggung jawab negara menjadi krusial untuk dibahas, mengingat instrumen hukum internasional yang mengatur mengenai kegiatan keantariksaan lahir sebelum fenomena pengalihan kepemilikan satelit di orbit terjadi.

Permasalahan hukum yang berkaitan dengan tanggung jawab negara dalam pengalihan kepemilikan satelit di orbit meliputi: bagaimana persoalan pengalihan kepemilikan satelit di orbit diatur dalam hukum internasional; bagaimana penerapan prinsip tanggung jawab negara dalam pengalihan kepemilikan satelit di orbit; dan masalah-masalah hukum yang timbul berkenaan dengan pengalihan kepemilikan satelit di orbit dan bagaimana cara penyelesaiannya.

Guna mencari jawaban terhadap permasalahan tersebut maka dilakukan penelitian yuridis normatif dengan menggunakan 3 (tiga) macam pendekatan, yaitu Pendekatan Perundang-undangan (Statute Approach), Pendekatan Konseptual (Conceptual Approach), dan Pendekatan Kasus (Case Approach). Berdasarkan hasil penelitian dapat disimpulkan bahwa: Pertama, pengalihan kepemilikan satelit di orbit dimungkinkan berdasarkan ketentuan Pasal II Registration Convention 1975; Kedua, penerapan tanggung jawab Negara dalam pengalihan kepemilikan satelit di orbit didasarkan pada Outer Space Treaty 1967, Liability Convention 1972, dan Registration Convention 1975; dan terakhir, masalah hukum yang timbul terutama masalah pendaftaran objek antariksa dan tanggung jawab negara dalam pengalihan kepemilikan khususnya jika terjadi kerugian yang disebabkan oleh objek antariksa yang dialihkan.

Terhadap permasalahan tersebut disarankan agar Negara yang menerima pengalihan kepemilikan setidaknya mencatat satelit tersebut dalam sistem registrasi nasionalnya untuk dapat memperoleh status sebagai Negara pendaftaran. Khusus untuk pengalihan kepada bukan Negara peluncur yang asli, maka diperlukan suatu perjanjian khusus yang mengatur tentang pengalihan yurisdiksi dan hak pengendalian serta kewajiban atas objek antariksa.

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ABSTRACT

Transfer of ownership of the satellite in orbit is a phenomenon that is born due to the development of space commercialization. Satellites which placed in orbit, registered in the name of the State so that the transfer of ownership leading to issues of jurisdiction, or control and responsibility of the State, becomes crucial to be discussed, considering the international legal instruments governing outer space activities published before the phenomenon of transfer of ownership of the satellite in orbit occur.

Legal issues relating to state responsibility in the transfer of ownership of the satellite in orbit include: how issues of ownership satellites in orbit governed by international law, how the application of the principle of state responsibility in the transfer of ownership of the satellite in orbit, and the legal issues which arise in regard to transfer of ownership of the satellite in orbit and how to solve it.

In order to find answers to these problems normative research is conducted using three kinds of approaches, i.e. Statute Approach, Conceptual Approach, and Case Approach.

Based on the results of this study concluded that: First, the transfer of ownership of the satellite in orbit is possible under the provisions of Article II of the Registration Convention 1975; Second, the implementation of State responsibility in the transfer of ownership of the satellite in orbit based on the Outer Space Treaty of 1967, the Liability Convention 1972 and the Registration Convention 1975; and finally, the legal issues which arise mainly space object registration problem and state responsibility in the transfer of ownership especially if there is damage caused by space objects which transferred.

Of these issues it is recommended that the State receiving the transfer of ownership, at least recorded the satellite in the national registration system, in order to obtain status as a State registration. Specifically for transfer to the State instead of the original launcher, it would require a special agreement governing the transfer of jurisdiction and the rights and obligations of control over the object space.