

Implementasi pembatalan putusan BANI dan putusan BAPMI oleh Pengadilan Negeri

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Abstrak

Article 60 of the law number 30 Year 1999 on Arbitration and alternative dispute resolution states that the arbitral award is final and binding over the parties. Contrariwise, article 70 of the law number 30 year 1999 along with the explanation implicates a possibility that the arbitral award is entitled be annulled and void by the districted court as long as the criminal elements therein shall be initially proven in court. This analysis uses normative legal research methods to examine two decisions : (1) Districts Court's Decision Number 528/PDT/G/ARB/2011/PN.JKT.PST annulling the decision of the Indonesian National Board of Arbitration (BANI) Number 399/V/ARB-BANI/2011, and (2) District Court's Decision Number 513/PDT.G/ARB/2012/PN.JKT.PST annulling the arbitral award of BAPMI (Indonesian Capital Market Arbitration Board) Number 004/ARB-03/VIII/2011. There is noticeable in the decisions a tendency on the subjects of legal considerations that are not conformed to the provisions of articles 70 of Law number 30 Year 1999 and contradictory to the principle of "presumption of innocence. "Thus, as a disagreement, the arbitral awards of BANI and BAPMI shall not be null and void by the districts court. Under the rule of law, there shall be an amendment to the Law Number 30 Year 1999. Further legal proceeding to an arbitral award should be no longer part through by revocation mechanism in the districts court, but in the form of an amendment or ratified interpretation of an arbitral award that is referring to the UNCITRAL Rules.