

Aspek-aspek hukum perdata internasional pada perkara putusan arbitrase internasional di Indonesia: analisis putusan nomor 144/K/Pdt/2012 dan putusan nomor 175/PDT/2018/PT.DKI = Private international law aspects on international arbitral award cases in Indonesia: analysis of decision number 144/K/Pdt/2012 and decision number 175/PDT/2018/PT.DKI

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Abstrak

Kondisi Indonesia yang saat ini telah menjadi salah satu negara anggota New York Convention on The Recognition and Enforcement of Foreign Arbitral Awards 1958 (New York Convention 1958) membuka peluang bagi putusan arbitrase internasional untuk dapat diakui dan dilaksanakan di wilayah hukum Republik Indonesia. Dalam hal ini klasifikasi suatu putusan arbitrase, apakah merupakan putusan arbitrase internasional atau putusan arbitrase nasional, menjadi penting karena berpengaruh terhadap kewenangan pengadilan terhadap perkara arbitrase internasional. Namun pada praktiknya dijumpai adanya perbedaan persepsi mengenai putusan arbitrase internasional menurut Undang-Undang Nomor 30 Tahun 1999 tentang Arbitrase dan Alternatif Penyelesaian Sengketa (Undang-Undang Arbitrase) dan konvensi internasional. Dengan menggunakan pendekatan yuridis normatif skripsi ini akan memberikan analisis mengenai aspek-aspek Hukum Perdata Internasional serta analisis mengenai pertimbangan hukum para hakim di Indonesia dalam pengklasifikasian putusan arbitrase internasional pada perkara Nomor 144/K/Pdt/2012 dan perkara Nomor 175/PDT/2018/PT.DKI. Selain itu juga ditemukan keperluan atas keselarasan pengaturan mengenai putusan arbitrase internasional dalam Undang-Undang Arbitrase dan konvensi-konvensi internasional demi mencapai kepastian hukum.

.....The condition of Indonesia which is one of the member country of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 (New York Convention 1958) give an opportunity to the recognition and enforcement of foreign arbitral awards in the jurisdiction of Indonesia. According to this condition the classification of arbitral awards, whether international arbitral award or national arbitral award, is important because it could affects the authority of the national court against international arbitration cases. In fact, there is a different perspective about international arbitral awards under the Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution (Arbitration Law) and international convention.

By using juridical normative approach, this thesis would give an analysis about the Private International Aspects and law considerations of Indonesian judges in the classification of international arbitral awards on case No. 144/K/Pdt/2012 and case No. 175/PDT/2018/PT.DKI. In addition, it is also requiring the regulation conformity of international arbitral awards under Arbitration Law and international conventions in order to attain the legal certainty.