

Analisis penerapan prinsip the best interest of the child dalam peraturan pengangkatan anak antarnegara di Indonesia dan Jerman = Analysis of the implementation of the best interest of the child principle in intercountry adoption regulation in Indonesia and Germany

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Abstrak

Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption (“Convention on Intercountry Adoption”) merupakan salah satu konvensi HCCH yang berhasil diratifikasi oleh 104 negara, yang menawarkan perlindungan dan kerja sama secara khusus pada negara peserta terhadap pengangkatan anak antarnegara. Dalam Penulisan ini, Indonesia, sebagai negara yang belum mengaksesi Convention on Intercountry Adoption, akan dibandingkan dengan Jerman sebagai negara peserta Konvensi ini. Penulisan ini bertujuan untuk menganalisis kepentingan Convention on Intercountry Adoption, apabila diaksesi oleh Indonesia serta membandingkan dengan Negara Jerman melalui kasus-kasus pengadilan di Indonesia maupun di Jerman. Sejarah Konvensi Pengangkatan Anak antarnegara, prinsip the best interest of the child, sampai dengan implementasi pengangkatan anak akan dibahas dalam penulisan ini agar lebih mudah menganalisis hukum materiil dan hukum formil dalam pengangkatan anak antarnegara. Selain itu juga, peraturan pengangkatan anak Indonesia dan Jerman akan dijabarkan, dan menjawab apakah Indonesia perlu untuk mengaksesi Konvensi ini, walaupun Indonesia telah mempunyai peraturan yang cukup mengenai pengangkatan anak antarnegara di Indonesia.

.....Convention on Protection of Children and Co-Operation in Respect of Intercountry Adoption (“Convention on Intercountry Adoption”) is one of the successful convention of the Hague Convention, which has been ratified by 104 states. This Convention offers safeguards and cooperation between the contracting states for intercountry adoption. In this research, Indonesia, as a country that has not yet ratified the convention, will be compared to Germany as one of the contracting states of this convention. This research intends to analyze the significance of Convention on Intercountry Adoption if Indonesia decides to accede. Furthermore, through analyzing the court decisions, a comparison with Germany has also been made. The background of the intercountry adoption convention, the principal of the best interest of the child, and the implementation of intercountry adoption is analyzed for a better understanding between the substantive law and the procedural law of intercountry adoption. Moreover, Indonesian’s and Germany’s regulations regarding intercountry adoption is explained to identify if Indonesia needs to accede Convention on Intercountry Adoption, while having regulations that has been already governing intercountry adoption in Indonesia.