

Ketertiban umum (public policy) dalam pembatalan pelaksanaan putusan arbitrase asing = Public policy in the annulment of enforcement of foreign arbitral awards

Randy Herjanto, author

Deskripsi Lengkap: <https://lib.ui.ac.id/detail?id=20364824&lokasi=lokal>

Abstrak

Tesis ini membahas penggunaan Ketertiban Umum (Public Policy) untuk membatalkan putusan arbitrase asing yang diatur di dalam Pasal V (2) Convention on the Recognition and Enforcement of Foreign Arbitral Award 1958. Pelaksanaan putusan arbitrase merupakan hal krusial karena eksekusi putusan merupakan esensi diadakannya arbitrase. Tiap-tiap negara memberlakukan Ketertiban Umum (Public Policy) secara berbeda, termasuk Indonesia yang belum memiliki konsensus melihat lingkup Ketertiban Umum (Public Policy). Antara Pengadilan Negeri dan Mahkamah Agung memiliki konsepsi berbeda mengenai Ketertiban Umum (Public Policy) Indonesia. Hal ini menjadi sebuah problema dimana pihak yang dikalahkan menggunakan alasan Ketertiban Umum (Public Policy) untuk menunda atau membatalkan eksekusi putusan.

.....This thesis is aimed to prescribe the practice of using Public Policy doctrine to annul foreign arbitral awards as were allowed under Article V (2) of the Convention on the Recognition and Enforcement of Foreign Arbitral Award 1958. The enforcement of an award is crucial and essential to arbitration proceedings. Different states will treat Public Policy differently, including Indonesia whom has yet to reach a consensus in defining what Public Policy should be used in foreign arbitration award enforcement. There are still discrepancy between Indonesian District Court and Supreme Court on the matter of what constitutes as Indonesian Public Policy. These discrepancies created a gaping loophole which are exploited by the party (parties) to delay or to annul the enforcements of the foreign arbitration award.