

Kewenangan pengadilan negeri dalam memeriksa dan mengadili tuntutan ingkar terhadap arbiter (Studi kasus sengketa PT. CTPI vs PT Berkah Karya Bersama) = The authority of district court to examine and rule the request for recusal against an arbitrator (Case study PT CTPI vs PT Berkah Karya Bersama)

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Abstrak

Tujuan dalam penelitian ini akan menerangkan salah satu permasalahan apakah pengadilan negeri dapat memeriksa dan mengadili tuntutan ingkar. Yaitu suatu hak yang diberikan oleh Undang-undang bagi para pihak yang berkepentingan apabila terdapat dugaan arbiter dalam melaksanakan tugasnya tidak bebas dan akan berpihak seperti yang dimaksud dalam pasal 22 UU No. 30 tahun 1999 tentang Arbitrase dan Alternatif Penyelesaian Sengketa UU Arbitrase. Di dalam pasal 25 UU Arbitrase pengadilan negeri melalui Ketua Pengadilan Negeri berwenang untuk memeriksanya, namun di sisi lain ada pasal-pasal lain yang seolah-olah bertabrakan dengan Pasal 25 UU Arbitrase seperti pasal 34 UU Arbitrase yang menyebutkan harus menggunakan acara yang di pilih yang seakan-akan menyatakan pengadilan tidak melibatkan terlalu jauh di dalam proses arbitrase sebab Arbitrase memiliki asas lex arbitri yang sedari awal sudah menundukkan diri dengan suatu ketentuan yang telah disepakati bersama.

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The purpose of this research is to explain one of the problems whether the district court can examine and rule the request for recusal which is the right granted by the Law to the parties if there is an allegation to the arbitrator in carrying out his her duties independently or will be biased as contemplated in Article 22 Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution Arbitration Law. In Article 25 of Arbitration Law, the district court through the Chairman of a District Court has an authority to examine the request for recusal, but on the other hand there are other articles that seems overlapping with Article 25 of Arbitration Law such as Article 34 of Arbitration Law which states shall be done according to the chosen procedures as if the district court is not very much involved in arbitration proceedings since the arbitration has a principle called Lex Arbitri which from the outset has subject to a provision that has been agreed.