

Analisis Pengaturan Pelaksanaan Putusan Arbitrase Di Indonesia Dan Inggris (Studi Kasus Perkara-Perkara Terkait PT Indiratex Spindo Melawan Everseason Enterprises, LTD) = The Analysis of Regulation for International Arbitration Enforcement in Indonesia and England (A Case Study of Cases Related to PT Indiratex Spindo v Everseason Enterprises, Ltd)

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Abstrak

Tulisan ini menganalisa bagaimana proses pelaksanaan putusan arbitrase internasional di Indonesia dan Inggris yang disusun menggunakan metode penelitian studi pustaka yang diambil dari Undang-Undang No. 30 Tahun 1996, Arbitration Act 1996, Civil Procedure Rules (CPR), ICA Rules and Bylaws, peraturan-peraturan lainnya, buku-buku dari ahli-ahli hukum seperti M. Yahya Harahap, Gary B. Born dan ahli-ahli hukum lainnya. Proses yang dimaksud adalah pembatalan dan perlawanan terhadap putusan arbitrase internasional. Dalam penelitian ini, rumusan masalah adalah; 1) Apakah terhadap putusan arbitrase Internasional dapat dimohonkan pembatalannya di Indonesia?; 2) Apakah terhadap putusan arbitrase internasional dapat diajukan perlawanan berdasarkan hukum acara di Indonesia?; 3) Bagaimanakah analisa hukum terkait upaya-upaya untuk tidak dilaksanakannya putusan arbitrase internasional dalam sengketa antara PT Indiratex Spindo melawan Everseason Enterprises Ltd mengacu pada Penetapan No. 194/Pdt.P/2014/PN.Jkt. Pst., Putusan No. 219 B/Pdt.Sus-Arbt/2016, Putusan No. 446/Pdt.Plw/ 2014/PN Jkt.Pst, Putusan No. 519/PDT/2017/PT.DKI, Putusan No. 605 K/Pdt.Sus-Arbt/2018 dan Putusan No. 193/G/2014/PTUN-JKT, Putusan No. 185/B/2015/PT.TUN.JKT, Putusan No. 161 K/TUN/2016 serta Putusan Mahkamah Konstitusi No. 19/PUU-XIII/2015?. Dari penelitian ini dapat disimpulkan bahwa 1) Pembatalan terhadap putusan arbitrase internasional hanya dapat dilakukan di negara tempat arbitrase dilaksanakan atau berdasarkan hukum negara mana yang digunakan dalam arbitrase; 2) Berdasarkan hukum acara perdata di Indonesia, perlawanan dapat dilakukan terhadap penetapan sita eksekusi dalam pelaksanaan putusan arbitrase internasional, bukan terhadap putusan arbitrase internasional; 3) Dalam putusan-putusan yang dianalisis terdapat putusan yang tepat, namun terdapat pula putusan yang kurang tepat karena kekurangcermatan hakim dalam mengonstruksikan substansi perkara.

.....This paper analyses the process of implementing international arbitration awards in Indonesia and England, using a literature review research method based on No. 30 of 1996, Arbitration Act 1996, Civil Procedure Rules (CPR), ICA Rules and Bylaws, other regulations, and books by legal experts such as M. Yahya Harahap, Gary B. Born and others. The process refers to the annulment and resistance against international arbitration awards. From the research, the questions that will be asked are: 1) Can annulment of international arbitration awards be requested in Indonesia?; 2) Can resistance against international arbitration awards be filed based on procedural law in Indonesia?; 3) What is the legal analysis regarding efforts to not execute international arbitration awards in disputes between PT Indiratex Spindo against Everseason Enterprises, Ltd, referring to Judgment No. 194/Pdt.P/2014/PN.Jkt. Pst., Judgment No. 219 B/Pdt.Sus-Arbt/2016, Judgment No. 446/Pdt.Plw/ 2014/PN Jkt.Pst, Judgment No. 519/PDT/2017/PT.DKI, Judgment No. 605 K/Pdt.Sus-Arbt/2018, and Judgment No. 193/G/2014/PTUN-

JKT, Judgment No. 185/B/2015/PT.TUN.JKT, Judgment No. 161 K/TUN/2016, as well as Constitutional Court Judgment No. 19/PUU-XIII/2015?. From this paper, it can be concluded that: 1) Annulment of international arbitration awards can only be submitted in the country where the arbitration is conducted or based on the law of the country used in the arbitration; 2) According to Indonesian civil procedure law, resistance can only be made against the verdict of execution on the enforcement of international arbitration awards, not against the international arbitration awards itself; 3) Within the judgements that has been analyzed, there are judgements that are appropriate, but there are also judgments that are less appropriate due to the judge's lack of precision in constructing the substance of the cases.