

ANALISIS *NEBIS IN IDEM* DALAM SENGKETA ARBITRASE (STUDI PUTUSAN NO. REG. 012/BAKTI-ARB/11.2013 DAN PUTUSAN NO. REG. 028/BAKTI-ARB/12.2014)

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INTISARI

Penelitian ini bertujuan untuk mengkaji dan memahami ketentuan tentang *nebis in idem* dikaitkan dengan Putusan No. Reg. 012/BAKTI-ARB/11.2013 dan No. Reg. 028/BAKTI-ARB/12.2104. Penelitian ini juga bertujuan untuk mengkaji dan memahami akibat hukum terhadap para pihak terkait Putusan No. Reg. 012/BAKTI-ARB/11.2013 dan No. Reg. 028/BAKTI-ARB/12.2104.

Jenis penelitian ini adalah penelitian kepustakaan. Sifat penelitian ini adalah penelitian normatif. Penelitian ini menggunakan data sekunder yang diperoleh dari peraturan perundang-undangan, buku-buku ilmu hukum, karya ilmiah, studi putusan arbitrase No. Reg. 012/BAKTI-ARB/11.2013 dan No. Reg. 028/BAKTI-ARB/12.2104. Analisis data di dalam penelitian ini dilakukan secara kualitatif. Jalannya penelitian ini dilakukan dalam 3 tahap yaitu Persiapan, pelaksanaan, dan penyelesaian.

Hasil penelitian dan pembahasan yang telah peneliti lakukan menghasilkan kesimpulan bahwa ketentuan tentang *nebis in idem* di Indonesia diatur dalam Pasal 1917 KUHPerdara. Ketentuan tersebut berlaku bagi penyelesaian sengketa di pengadilan negeri dan arbitrase. Ketentuan tentang *nebis in idem* jika dikaitkan dengan Putusan No. Reg. 012/BAKTI-ARB/11.2013 dan No. Reg. 028/BAKTI-ARB/12.2104 menurut peneliti adalah tidak terjadi pelanggaran terhadap Pasal 1917 KUHPerdara karena kedua putusan tersebut memiliki substansi yang berbeda. Akibat hukum terhadap para pihak terkait Putusan No. Reg. 012/BAKTI-ARB/11.2013 dan No. Reg. 028/BAKTI-ARB/12.2104 adalah pemohon arbitrase masih dapat mengajukan kembali tuntutan kepada institusi arbitrase yang sama karena Putusan No. Reg. 012/BAKTI-ARB/11.2013 menyatakan bahwa permohonan arbitrase tidak dapat diterima. Termohon dalam putusan No. Reg. 028/BAKTI-ARB/12.2104 sebagai pihak yang kalah dan diminta untuk membayar ganti kerugian kepada pemohon, karena termohon terbukti telah melanggar peraturan yang dikeluarkan oleh Badan Pengawas Perdagangan Berjangka Komoditi (BAPPEBTI).

Kata kunci: *nebis in idem*, BAKTI, arbitrase

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***NON BIS IN IDEM* ANALYSIS IN ARBITRATION DISPUTES (STUDY OF DECISION NO. REG. 012/BAKTI-ARB/11.2013 AND DECISION NO. REG. 028/BAKTI-ARB/12.2014)**

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ABSTRACT

This research aims to examine and understand the provisions regarding *non bis in idem* associated with Decision No. Reg. 012/BAKTI-ARB/11.2013 and No. Reg. 028/BAKTI-ARB/12.2014. This research also aims to examine and understand the legal consequences for the parties related to Decision No. Reg. 012/BAKTI-ARB/11.2013 and No. Reg. 028/BAKTI-ARB/12.2014.

This type of research is library research. The nature of this research is normative research. This study uses secondary data obtained from laws and regulations, legal science books, scientific works, studies of arbitration decisions No. Reg. 012/BAKTI-ARB/11.2013 and No. Reg. 028/BAKTI-ARB/12.2014. Data analysis in this study was carried out qualitatively. The course of this research was carried out in 3 stages, namely preparation, implementation, and completion.

The results of the research and discussion that have been carried out by researchers have concluded that the provision regarding *non bis in idem* in Indonesia are regulated in Article 1917 of the Civil Code. These provisions apply to dispute resolution in district courts and arbitration. The provisions regarding *non bis in idem* if it is associated with decisions No. Reg. 012/BAKTI-ARB/11.2013 and No. Reg. 028/BAKTI-ARB/12.2014, according to the researcher, there is no violation of Article 1917 of the Civil Code because the two decisions have different substances. The legal consequences for the parties related to Decisions No. Reg. 012/BAKTI-ARB/11.2013 and No. Reg. 028/BAKTI-ARB/12.2014 is that the arbitration applicant can still resubmit his claim to the same arbitration institution because Decision No. Reg. 012/BAKTI-ARB/11.2013 states that the application for arbitration cannot be accepted. The Respondent in the Decision No. Reg. 028/BAKTI-ARB/12.2014 as the losing party and asked to pay compensation to the applicant, because the respondent is proven to have violated the regulation issued by CoFTRA.

keyword: *non bis in idem*, BAKTI, arbitration

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