

THE ENFORCEABILITY OF NEW YORK CONVENTION 1958: COMPARATIVE STUDY BETWEEN INDONESIA AND SINGAPORE

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ABSTRACT

The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards 1958 has various implementation considering the numerous legal systems across the world, one of them concerning the refusal to recognize the award as allowed under Article V of the Convention, specifically in the public policy ground. Each country may interpret the public policy differently.

This research employs a normative-comparative framework from international literature studies. The data is gathered both from primary and subsidiary sources of international arbitration law, including international legal instrument, national arbitration law, international and national judicial decisions, and doctrines. Based on the legal framework, this research provides an analysis by looking at the normative aspects and comparing the implementation.

This research concludes that there is a distinct implementation of the Convention regarding the enforcement and recognition of international arbitration awards. This is because the legal frameworks provided are different in nature, as well as, different case law rendered between in Indonesia and Singapore are interpreted differently. Indonesia is using a broad approach as the basis of the annulment, meanwhile, Singapore used a limited and strict interpretation to annul the international arbitral award.

Keywords: Annulment of Foreign Arbitral Award, Public Policy, Refusal to Recognize, Article V of New York Convention, *Lex Arbitri*

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KEBERLAKUAN KONVENSI NEW YORK 1958: STUDI BANDING ANTARA INDONESIA DAN SINGAPURA

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INTISARI

Konvensi New York 1986 tentang Pengakuan dan Penegakan Putusan Arbitrase Asing (Recognition and Enforcement of Foreign Arbitral Awards) memiliki berbagai implementasi mengingat keberagaman sistem hukum di seluruh dunia, salah satunya mengenai penolakan untuk mengakui dan melaksanakan keputusan arbitrase sebagaimana diperbolehkan dalam Pasal V, khususnya mengenai asas ketertiban umum dimana setiap negara dapat menginterpretasikan definisi ketertiban umum secara berbeda.

Penelitian ini menggunakan kerangka normatif-komparatif dari studi literatur internasional. Data dikumpulkan baik dari sumber utama dan tambahan hukum arbitrase internasional, termasuk instrumen hukum internasional, hukum arbitrase nasional, keputusan peradilan internasional dan nasional, dan doktrin. Berdasarkan kerangka hukum, penelitian ini memberikan analisis dengan melihat aspek normatif dan membandingkan pelaksanaannya.

Penelitian ini menyimpulkan bahwa terdapat perbedaan implementasi Konvensi mengenai penegakan dan pengakuan putusan arbitrase internasional. Hal ini karena kerangka hukum yang diberikan berbeda sifatnya, serta perbedaan kasus hukum yang diberikan antara Indonesia dan Singapura yang ditafsirkan berbeda. Indonesia menggunakan pendekatan yang luas sebagai dasar pembatalan, sedangkan Singapura menggunakan interpretasi yang terbatas dan ketat untuk membatalkan putusan arbitrase internasional.

Kata Kunci: *Pembatalan Putusan Arbitrase Asing, Asas Ketertiban Umum, Penolakan Pengakuan, Pasal V New York Convention 1958, Lex Arbitri*

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