

PENGARUH *GENERAL AGREEMENT ON TRADE IN SERVICES* (GATS) TERHADAP PENGATURAN PEMENUHAN HAK ATAS PENDIDIKAN TINGGI DI INDONESIA

Oleh

Alda Izzati¹ dan Heribertus Jaka Triyana²

ABSTRAK

Penelitian ini bertujuan untuk mengkaji dan membahas permasalahan yang ada dalam regulasi *General Agreement on Trade in Services* (GATS) terhadap pengaturan pemenuhan hak atas pendidikan tinggi dalam perspektif hukum hak asasi manusia. Penelitian ini dimulai dengan mengidentifikasi dasar hukum, sinkronisasi hukum, dan sejarah hukum. Selanjutnya, penelitian ini berusaha mengidentifikasi bagaimana pengaturan perdagangan jasa pendidikan tinggi yang diatur dalam *World Trade Organization* (WTO) dan pengaruhnya terhadap pemenuhan hak atas pendidikan tinggi di Indonesia. Penelitian ini merupakan penelitian hukum normatif yang dilakukan dengan meneliti data sekunder yang terdiri dari bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier yang diperoleh melalui studi kepustakaan. Berdasarkan hasil penelitian, terdapat beberapa temuan: *pertama*, pengaturan perdagangan jasa dalam WTO diatur melalui GATS. Namun untuk perdagangan jasa pendidikan tinggi, WTO secara spesifik mengeluarkan *services sectoral classification list* yang mengelompokkan jasa ke dalam 12 (dua belas) sektor, salah satunya jasa pendidikan tinggi; *kedua*, jangkauan dan penetrasi GATS ke dalam lingkungan regulasi nasional membawa kita pada suatu kesimpulan bahwa GATS membatasi dan mengurangi kebebasan mengatur dari regulasi nasional, khususnya dalam hal pemenuhan hak atas pendidikan tinggi.

Kata Kunci: GATS, Perdagangan Jasa Pendidikan Tinggi, Hak Atas Pendidikan Tinggi, Indonesia.

¹ Mahasiswa Magister Hukum Bisnis dan Kenegaraan Fakultas Hukum Universitas Gadjah Mada, Yogyakarta.

² Dosen Fakultas Hukum Universitas Gadjah Mada, Yogyakarta.

***THE EFFECT OF GENERAL AGREEMENT ON TRADE IN SERVICES (GATS) ON
ARRANGEMENTS TO FULFILL THE RIGHT TO HIGHER EDUCATION IN
INDONESIA***

by

Alda Izzati³ and Heribertus Jaka Triyana⁴

ABSTRACT

This thesis aims to examine and analyse the problems that exists in the regulation of the General Agreement on Trade in Services (GATS) towards the fulfilment of the right to higher education from the perspectives of human rights law. This research begins by identifying the legal basis, relationship between the different legal framework, as well as a historical point of view. Then, this study will analyse how the trade agreements on higher education services are regulated in the World Trade Organization (WTO) and their effect on the fulfilment of the right to higher education in Indonesia. This research is a normative legal research conducted by examining secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials obtained through literature study. The results of this research are as such; first, the regulation of trade in services in the WTO is regulated through GATS. However, for trade in higher education services, the WTO specifically issues a services sectoral classification list which groups services into 12 (twelve) sectors, one of which is higher education services. Second, the reach and penetration of GATS into the national regulatory environment leads us to the conclusion that GATS limits and reduces the freedom of regulation of national regulations, particularly in terms of the fulfilment of the right to higher education.

Keywords: *GATS, Trade in Higher Education Services, Right to Higher Education, Indonesia.*

³ Student at Magister Hukum Bisnis dan Kenegaraan Program, Faculty of Law, Universitas Gadjah Mada, Yogyakarta.

⁴ Lecturer at the Faculty of Law, Universitas Gadjah Mada, Yogyakarta.