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INTISARI

Tujuan dari disertasi ini adalah untuk mengkaji dan mendiskusikan penyebab lemahnya penerapan prinsip-prinsip keadilan pada proses pelaksanaan eksekusi jaminan internasional atas pesawat udara pada implementasi IDERA di Indonesia, yang lahir dari Cape Town Convention 2001, berikut dampak ekonomi yang ditimbulkannya pada industri penerbangan Indonesia, serta merekomendasikan konsep pengaturan ke depan tentang bagaimana proses pelaksanaan eksekusi jaminan internasional atas pesawat udara dilaksanakan.

Metode penelitian yang digunakan adalah penelitian hukum normatif dan penelitian hukum empiris. Pada metode penelitian hukum normatif, penelitian bersifat deskriptif, dan didasarkan pada data sekunder berupa peraturan perundang-undangan sebagai bahan hukum primer, pendapat para ahli sebagai bahan hukum sekunder dan sumber lain sebagai bahan hukum tersier seperti pemberitaan melalui media elektronik. Pada metode penelitian hukum empiris, penulis melakukan penelitian di lapangan untuk memperoleh data primer langsung dari para pelaku usaha penerbangan, pejabat pada otoritas penerbangan, serta data penelitian yang diperoleh melalui survei terhadap konsumen angkutan udara nasional. Analisis data yang diperoleh dari hasil penelitian, dilakukan dengan teknik kualitatif, deskriptif, dan komparatif.

Hasil penelitian disertasi ini menghasilkan kesimpulan, pertama, lemahnya penerapan prinsip keadilan terhadap debitur pada implementasi IDERA, disebabkan karena Cape Town Convention 2001 hanya dimaksudkan untuk melindungi kepentingan kreditur. Akibatnya, tidak ada perlindungan yang bisa diberikan kepada maskapai penerbangan dalam hal terjadi perselisihan. Kedua, lemahnya penegakan prinsip keadilan berdampak negatif secara ekonomi terhadap ekosistem industri penerbangan. Ketiga, perlu dibuat aturan baru tentang proses pelaksanaan eksekusi jaminan internasional dengan konsep yang lebih menjamin terselenggaranya prinsip-prinsip keadilan bagi para pihak termasuk penguasaan kembali fisik pesawat oleh kreditur.

Kata kunci: IDERA, jaminan internasional, eksekusi pesawat udara, Cape Town Convention 2001, penyelesaian sengketa, asas keadilan.

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**THE JUSTICE ASPECT ON THE PROCESS OF EXECUTION TOWARD
INTERNATIONAL INTEREST OVER AIRCRAFT ON IMPLEMENTATION OF
IRREVOCABLE DE-REGISTRATION AND EXPORT REQUEST AUTHORIZATION
(IDERA) AND ITS IMPLICATION TO THE
INDONESIA AVIATION INDUSTRY**

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ABSTRACT

The aim of this dissertation is to analyse and discuss the lack of applying justice principles in the execution over aircraft as international interest in the implementation of IDERA in Indonesia, which granted by Cape Town Convention 2001, includes its economic impact on the Indonesia aviation industry and to recommend the legal concept of execution over an aircraft as an international interest.

The method of this research is combination of both juridical normative approach and juridical empiric approach. On the juridical normative approach, the research was conducted by using juridical descriptive based on secondary data such law and regulation as a primary legal material, opinion of some experts as a secondary legal material and other sources as a tertiary legal material such as news on internet media. On the juridical empiric approach, the author researched the factual condition in order to collect a primary data directly from the airlines, aviation authority and the research data collected from survey of the national air transportation consumers. The analysis of collected data carried out by qualitative technique, descriptive and comparative study.

The result of this research can be concluded, firstly, the lack of carrying out the justice principles for debtors on the implementation of IDERA, is due to the Cape Town Convention 2001 was only intended to protect creditors. As result, there is no any protection available for airlines in case of dispute. Secondly, the lack to enforce justice principles will impact negatively in economic side to the ecosystem of aviation industry which is not only air transportation, but also its supporting industries. Thirdly, need to grant a new regulation relating to the process of international interest dispute resolution with the concept to ensure the carry out of justice principles for the parties includes repossession of aircraft by creditor.

Keywords: IDERA, International interest, execution over an aircraft, Cape Town Convention 2001, dispute settlement, justice principle.

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