

## **The Legal Framework of Demarcating Foreign and National Arbitral Awards In Indonesia: A Comparative Study With International Standards**

Author:

Immanuel Setyo Indradi Santosa<sup>1</sup>, Royhan Akbar<sup>2</sup>

### **ABSTRACT**

Indonesia's arbitration and alternative dispute resolution law has long struggled to classify arbitral awards as either domestic or international. The issue was exacerbated by the ambiguity of Article 1(9) of Law No. 30 of 1999, which allowed conflicting interpretations. This research analyzes the impact of Constitutional Court Decision No. 100/PUU-XXII/2024, which reaffirmed a strict territorial approach and its implications for legal certainty.

This study employs normative legal research and comparative analysis, comparing Indonesia's framework with those of Singapore and France. Singapore adopts a dual-regime system based on the UNCITRAL Model Law, while France applies a substantive test grounded in international trade relevance.

The findings reveal that Indonesia's strict territorial principle creates uncertainty in cross-border arbitration. Although the Constitutional Court's decision improves short-term clarity, legislative reform remains necessary. Drawing from Singapore and France, Indonesia should codify clearer distinctions between domestic, national, international, and foreign arbitral awards to enhance coherence, legal certainty, and alignment with global standards.

**Keywords:** Classification of Arbitral Awards, Territoriality, UNCITRAL Model Law, International Arbitration, ADR Law

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<sup>1</sup> Student at the Department of Business Law, Faculty of Law, Universitas Gadjah Mada (International Undergraduate Program 2021).

<sup>2</sup> Lecturer at the Department of Business Law, Faculty of Law, Universitas Gadjah Mada.

## Kerangka Hukum untuk Membedakan Putusan Arbitrase Asing dan Nasional di Indonesia: Sebuah Studi Komparatif Dengan Standar Internasional

Penulis:

Immanuel Setyo Indradi Santosa<sup>3</sup>, Royhan Akbar<sup>4</sup>

### INTISARI

Hukum arbitrase dan alternatif penyelesaian sengketa di Indonesia telah lama menghadapi tantangan dalam mengklasifikasikan putusan arbitrase sebagai putusan domestik atau internasional. Permasalahan ini diperumit oleh ambiguitas Pasal 1 angka 9 Undang-Undang No. 30 Tahun 1999, yang selama ini membuka ruang bagi dua interpretasi berbeda. Penelitian ini menganalisis pengaruh Putusan Mahkamah Konstitusi No. 100/PUU-XXII/2024 yang menegaskan kembali prinsip teritorialitas secara ketat dan dampaknya terhadap kepastian hukum.

Penelitian ini menggunakan metode yuridis normatif dengan pendekatan perbandingan. Studi ini membandingkan kerangka hukum Indonesia dengan Singapura dan Prancis dalam mengklasifikasikan putusan arbitrase. Singapura menganut sistem dual-regime berbasis UNCITRAL Model Law, sementara Prancis menggunakan pendekatan substantif dengan melihat kepentingan perdagangan internasional.

Hasil penelitian menunjukkan bahwa prinsip teritorialitas yang kaku di Indonesia menciptakan ketidakpastian hukum, terutama dalam arbitrase lintas negara. Meskipun putusan Mahkamah Konstitusi telah memberikan kejelasan jangka pendek, reformasi legislasi tetap dibutuhkan. Belajar dari praktik Singapura dan Prancis, Indonesia sebaiknya mengadopsi sistem klasifikasi yang membedakan antara putusan domestik, nasional, internasional, dan asing guna meningkatkan kepastian hukum serta kompatibilitas dengan standar internasional.

**Kata kunci:** Klasifikasi Putusan Arbitrase, Teritorialitas, Hukum Model UNCITRAL, Arbitrase Internasional, Hukum

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<sup>3</sup> Student at the Department of Business Law, Faculty of Law, Universitas Gadjah Mada (International Undergraduate Program 2021).

<sup>4</sup> Lecturer at the Department of Business Law, Faculty of Law, Universitas Gadjah Mada.