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THE INDONESIA'S IMPLEMENTATION OF CAPE TOWN CONVENTION 2001

Abstract:

Pursuant to Article 38 paragraph I of the Statute of International Court of Justice, international convention constitutes one of the most important source of International Law. Ratification is a phase of international convention drafting which is relied on the state's policy regarding the relation to international law and national law. In 2007, Indonesia ratified the Cape Town Convention 2001 through the President Decree No. 8 Year 2007. The adoption of International Law to National Law of a state will affect the national law of such state. Thus, it is important to observe the implementation of Cape Town Convention 2001 in Indonesia and its impact, whether its advantages or disadvantages to national law of Indonesia.

This research uses normative juridical method with analysis descriptive approach. The research knowledge by primary, secondary, and tertiary sources and also discussing international convention especially concerning ratification of Cape Town Convention 2001 by Indonesia related to Law No. 1 of 2009.

In Implementation the Cape Town Convention 2001, Indonesia had accommodated several provisions of the national law, among other things, the Law of Aviation 2009 and several implementing regulations i.e. Minister of Transportation Decree. Four essential matters which should be implemented related to international interest, priority right, and the remedy, the provision of international registration have not implemented yet by Indonesia. The ratification of Cape Town Convention 2001 and advantages the Indonesian aviation companies by having rate reduction from American Export Import Bank for the airplane trades, however the Indonesian aviation companies should be aware of such privilege in entering into the airplane procurement contracts due to the international interest therein, hence in the event of breach of contract, the creditor can withdraw the airplane by virtue of the international registration based on Cape Town Convention 2001.

Keywords:

Cape Town Convention 2001, Implementation and Ratification, International Interest, International Registration

JEL Classification: K30