

ABSTRACT

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LEGAL HARMONIZATION OF THE APPLICATION OF THE PRINCIPLE OF CROSS-BORDER INSOLVENCY IN THE EXECUTION OF CROSS-BORDER BANKRUPTCY ASSETS IN INDONESIA

(XII + 133 pages; 2 figures; 1 table; 2 appendices)

Through globalization, economic and political boundaries between countries are blurring. Cross-border transactions are important as companies can seek opportunities and resources in different countries, enhancing global economic connectivity and increasing interdependence between countries. These global transactions have led to many businesses owning assets in more than one country. Problems are found when business actors are declared bankrupt by the Commercial Court and assets located outside the Territory of the Republic of Indonesia cannot be executed due to limited state jurisdiction based on Article 431 Rv. Whereas Article 21 bankruptcy act and Article 1131 of the Civil Code state that bankruptcy covers all assets of the debtor so that the debtor's assets located abroad are not an exception. This causes Creditors not to get their rights as they should and the opportunity for Debtors to commit bad faith to hide assets abroad. Thus, the purpose of this study is to break down legal issues, especially related to the execution of bankruptcy assets abroad. This research used empirical juridical method with legal systematic and comparative approach. The results show that there are several solutions in overcoming cross-border insolvency, namely by making agreements with one or more than two countries. Instruments that exist in international practice include bilateral agreements, multilateral agreements such as treaties or conventions as used by the European Union, and the adoption of the UNCITRAL Model Law on Cross Border Insolvency. Thus, between countries that agree to cooperate to obtain recognition and enforcement of foreign judgments to execute transnational bankruptcy assets and legal harmonization can be achieved.

Refrence : 26 books, 24 scientific journal, 1 research results, 24 websites, 1 interview

Keyword : legal harmonization, *cross border insolvency*, UNCITRAL Model Law, globalisasi