

Abstract

THE PRINCIPLES OF PARTY AUTONOMY IN TRANSNATIONAL ELECTRONIC CONSUMER CONTRACT

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A transnational contract is a contract involving one of the parties who is from overseas, causing the choice of law usage coming from one of country parties. A consumer contract has a different characteristic with the commercial contract in general i.e. the consumer is viewed to have unbalanced position compared to the seller (business doer), commonly the contract is arranged using the form which has already been standardized so the consumers are faced the choice whether they want to take it or leave it. Besides, electronic consumer contract is virtual and borderless so the consumer has difficulty to negotiate towards the substance from the contract including the freedom of autonomy in determining the choice of law or choice of forum. The Existing law like Law on Consumer Protection Law; Law of Electronic Information and Transaction; Law of Trade or even Private International Law (PIL) has not accommodated the proviso concerning to the choice of law and the choice of law inside the transnational consumer electronic contract.

This research discusses the legal issues i.e. (1) autonomy principle of the parties and the characteristics of transnational electronic consumer contract in determining the choice of law (2) the legal protection of electronic consumer contract in determining the choice of law and choice of forum (3) the harmonization of choice of law and choice of forum in the transnational electronic consumer contract and legal consideration (*raciodecidendi*) of judges in examining the case which is related to the choice of law and choice of forum.

This research is categorized as normative research and it has purpose to reform the law (legal reform oriented) concerning to the choice of law and choice of forum in matter of transnational electronic contract. In order to answer those legal issues, this legal research uses statute approach, conceptual approach, case approach, and comparative approach. The findings of this research state that:(1) There must be a special treatment in which there is unbalanced parties in consumer contract so the applicable law is not solely based on the autonomy of parties but state gives guidance rules that the applicable law is determined by them as part of public order and mandatory law(2) The forms of legal protection are classified(1) The legal protection in which the applicable law is the law at which the consumer lives (habitual residence) (2) Court forum which examines consumer dispute is the state forum which comes from their home country through small claim court(3) in order to find the similarity purposes and concerns as the effort protecting the consumer in the field of choice of law or choice of forum, it needs to have harmonization among the states all over the world as part of minimum legal protection.

Keyword : *party autonomy, choice of law, choice of forum, e consumer contract.*