

Konsep perdagangan pengaruh (trading in influence) di Indonesia = Trading in influence concept in Indonesia / Brigita Purnawati Manohara

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Abstrak

ABSTRAK

Tesis ini membahas tentang konsep trading in influence yang ketentuannya terdapat dalam Pasal 18 United Nation Convention Against Corruption (UNCAC). Indonesia sebagai salah satu negara yang ikut menandatangani konvensi ini belum meratifikasi aturan mengenai trading in influence dalam hukum positifnya. Padahal dalam perkara korupsi di Pengadilan Tipikor beberapa diantaranya teridentifikasi sebagai perbuatan trading in influence seperti suap impor daging sapi dengan terdakwa Luthfi Hasan Ishaq dan Ahmad Fatanah. Metode penelitian yang digunakan adalah penelitian normatif yaitu penelitian yang dilakukan terhadap peraturan perundang-undangan dan kepustakaan hukum serta doktrin yang berkaitan dengan konsep trading in influence. Tesis ini juga membandingkan ketentuan mengenai trading in influence di beberapa negara. Hasil penelitian menyimpulkan bahwa konsep trading in influence memiliki unsur yang hampir sama dengan suap dan gratifikasi sehingga aturan mengenai suap dan gratifikasi dapat digunakan untuk menjerat pelaku trading in influence. Walaupun belum ada delik tersendiri yang mengatur konsep ini, namun pelaku dapat dijerat dengan Pasal 55 KUHP yang dijunctokan dengan pasal mengenai suap atau gratifikasi. Kondisi ini menunjukkan adanya korelasi antara trading in influence dan penyertaan.

ABSTRACT

This thesis discusses the concept of trading in influence that contained in Article 18 United Nation Convention Against Corruption (UNCAC) . Indonesia as one of the countries that signed the convention has not ratified the rules on trading in influence has not ratified the rules on trading in influence in their positive law. Whereas in the case of corruption in the corruption court, some of which have been identified as the act of trading in influence such bribes beef import quota by the defendant Luthfi Hasan Ishaq and Ahmad Fathanah. The research uses normative research method that is a study of legislation and legal literature and doctrine relating to the concept of trading in influence. This thesis also compared the provisions on trading in influence in some countries. The study concluded that the concept of trading in influence has elements similar to bribery and graft so that the rules regarding bribery and graft can be used against trading in influence. Consequently, although there is no separate set offence, the offender can be charged with Article 55 of the Penal Code in conjunction with Article regarding bribes or gratuities. These condition indicate the existence of the correlation between trading in influence and participation.