

Doktrin legitimate expectations dalam sengketa penanaman modal antara negara dengan penanam modal asing di International Centre for Settlement of Investment Disputes = Doctrine of legitimate expectations on the settlement of investment disputes between states and nationals of other states in International Centre for Settlement of Investment Disputes

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Abstrak

Dalam perjanjian penanaman modal asing, salah satu bentuk perlakuan yang wajib diberikan oleh negara penerima modal kepada penanam modal asing adalah perlakuan yang adil dan wajar yang dikenal dengan istilah Fair and Equitable Treatment. Saat ini, salah satu unsur standar Fair and Equitable Treatment yaitu legitimate expectations, kerap digunakan sebagai dasar gugatan oleh penanam modal asing terhadap negara penerima modal dalam sengketa penanaman modal asing. Dalam skripsi ini dianalisis putusan-putusan ICSID yang telah mempertimbangkan legitimate expectations. Hasil penelitian ini menjelaskan doktrin legitimate expectations dan pendekatan-pendekatan yang digunakan oleh Dewan Arbiter ICSID dalam menginterpretasikan doktrin legitimate expectations dalam sengketa penanaman modal asing.

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In international investment agreements, one form of the treatments that shall be given by the host state to foreign investors is fair and equitable treatment. Nowadays, one of the elements of fair and equitable treatment, namely legitimate expectations, is oftenly used by foreign investors as a claim basis against the host state in foreign investment disputes. This thesis analyzed ICSID arbitration awards that have put legitimate expectations into consideration. The result of this research explains doctrine of legitimate expectations and the approaches used by the ICSID arbitration tribunals to interpret it in foreign investment disputes.