

Perlindungan hukum terhadap tenaga kerja asing yang menjabat sebagai anggota direksi dalam akta perseroan terbatas (studi kasus: putusan Mahkamah Agung nomor 2772 K/PDT/2012 antara PT Longfair Iron Mining melawan PT Mentaya Iron Ore Mining) = Legal protection for foreign labor who occupied as a member of board of director in the article of association of limited liability company (case study: Supreme Court decree number 2772 K/PDT/2012 between PT Longfair Iron Mining against PT Mentaya Iron Ore Mining)

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Abstrak

Tenaga Kerja Asing yang menjabat sebagai anggota direksi tidak hanya menjalankan fungsinya sebagai organ perseroan terbatas dalam satu perseroan. Direktur asing yang dipertimbangkan karyawan sebagaimana dimaksud dalam Hukum Ketenagakerjaan dapat menjalankan fungsinya di beberapa perusahaan selama Tenaga Kerja Asing diangkat dalam Rapat Umum Pemegang Saham sebagai anggota direksi dan secara sesuai dapat menjalankan fungsinya. Penulisan ilmiah ini berbentuk yuridis-normatif, bertipologi normatif, dengan menggunakan data sekunder dan metode analisis deskriptif. Dari hasil penelitian tersebut, dapat disimpulkan bahwa perangkat hukum di Indonesia memberikan perlindungan hukum terhadap Tenaga Kerja Asing yang menjabat sebagai direktur. Akan tetapi, akibat kurang adanya kepastian hukum dalam peraturan pelaksana ketenagakerjaan, pemberi kerja diharuskan untuk mengetahui dan cermat dalam memberikan kepastian informasi kepada Direktur Asing untuk memulai tugasnya perseroan guna menghindari Tenaga Kerja Asing dalam melanggar peraturan ketenagakerjaan yang berlaku di Indonesia.

.....Foreign Worker who serve as members of the board of director do not only undertake their functions as organs of limited liability company in one company. Foreign director are considered as employee pursuant to Labour Law could undertake their functions in several companies as long as Foreign Worker have been appointed with the General Meeting of Shareholders as a member of the board of directors and could properly undertake their functions. This is a legal normative thesis with normative typology, utilizing secondary legal data and descriptive analytic method. Based on the result of these thesis, it can be concluded that the legal instruments in Indonesia provide legal protection for foreign worker who serve as directors. However, due to lack of legal certainty in executive labour regulations, employers are required to understand and scrupulous in providing information to the Foreign Director in order to begin their duties for preventing such violation of applicable labour regulations in Indonesia.