

Perlindungan hukum investor terhadap isu korupsi dalam arbitrase investasi internasional = Protection of foreign investor against the issue of corruption in international investment arbitration

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Abstrak

Sebagai salah bentuk perlindungan hukum terhadap investor, arbitrase investasi internasional memberikan sarana kepada investor asing untuk mengajukan klaim atas dasar perlindungan-perindungan substantif yang menjadi hak investor. Dalam perkembangannya, tribunal arbitrase seringkali dihadapkan dengan isu korupsi yang dijadikan argumentasi oleh para pihak untuk menolak yurisdiksi tribunal atau meniadakan klaim pihak lain. Kondisi tersebut menimbulkan komplikasi dan ketidakpastian terkait perlindungan investor mengingat sarana terhadap arbitrase merupakan bentuk perlindungan prosedural bagi investor. Sifat dari tindak pidana korupsi yang luas, multi-dimensional dan memiliki sisi pemberi dan penerima juga berperan dalam menambah komplikasi permasalahan ini. Penelitian ini akan membahas komplikasi tersebut serta mengkaji kesiapan hukum investasi Indonesia dalam menghadapi permasalahan tersebut.

.....As one of a form of protection toward investors, international investment arbitration provides a way for foreign investor to file a lawsuit based on the substantive protection provided to them as a right. In its development, arbitral tribunal often faced with an issue of corruption that serve as a killing argument against the claim of other parties, this condition has the potential to complicate the issue and create uncertainty towards investor protection in which the international investment arbitration itself serves as a procedural protection of investor. The nature of the corruption which is broad, multi-dimensional, and got supply and demand side in it, furtherly complicate the issue. This study will discuss on this complicated issue and review about the readiness of Indonesian Investment Law to deal with the issue.