

Yurisdiksi ICSID sebagai forum penyelesaian sengketa penanaman modal asing; studi kasus ICSID award on jurisdiction no ARB/ 07/ 3 dalam perkara Pemda Kaltim melawan PT. Kaltim Prima Coal dkk = ICSID jurisdiction as the foreign investment dispute settlement forum; case study ICSID award on jurisdiction no ARB/ 07/ 3 in the proceeding between GPEK v. PT. Kaltim Prima Coal and others

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Abstrak

Penelitian ini bertujuan untuk menjelaskan dan menganalisis pengaturan mengenai yurisdiksi Majelis Arbiter berdasarkan Konvensi ICSID dan penerapannya. Hasil penelitian menunjukkan bahwa berdasarkan Pasal 25 Konvensi ICSID, yurisdiksi Majelis Arbiter dalam mengadili suatu sengketa ditentukan oleh adanya kesepakatan para pihak, ketentuan *ratione materiae* dan *ratione personae*. Pentingnya ketiga persyaratan tersebut untuk dipenuhi dalam menentukan yurisdiksi Majelis Arbiter dapat dilihat dalam perkara Pemda Kaltim melawan PT Kaltim Prima Coal dkk. Dalam perkara tersebut, ketentuan *ratione personae* tidak terpenuhi sehingga Majelis Arbiter ICSID menyatakan diri tidak memiliki yurisdiksi untuk mengadili perkara tersebut.

.....This research is aimed to describe and analyze the rules regarding the Arbitral Tribunal`s jurisdiction based on the ICSID Convention and its implementation. The result of this research shows that based on Article 25 of the ICSID Convention, the ICSID Arbitral Tribunal`s jurisdiction is determined by the consent of the disputing parties, requirements *ratione materiae* and *ratione personae*. In GPEK v. PT Kaltim Prima Coal and others, it is obvious that the compliance of those requirements is very fundamental in determining the Tribunal`s jurisdiction over the dispute. In the mentioned case, requirements *ratione personae* were not fulfilled. Consequently, the Tribunal lacks of jurisdiction over the dispute.