

Pengungkapan Third-Party Funding dalam Arbitrase Investasi Internasional Berdasarkan Amandemen Keempat ICSID Rules and Regulations: Potensi Dampak bagi Indonesia = Notice of Third-Party Funding in International Investment Arbitration Under the Fourth Amendment to ICSID Rules and Regulations: Potential Impact for Indonesia

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Abstrak

Third-Party Funding merupakan metode pendanaan di mana penyandang dana memberikan dana kepada salah satu pihak dalam sengketa untuk menggugat atau meminimalkan gangguan arus kas, dan jika kasus dimenangkan, penyandang dana akan mendapatkan bagian dari putusan akhir yang diperoleh. TPF awalnya dipergunakan dalam litigasi di beberapa yurisdiksi, namun kini semakin populer dalam arbitrase investasi internasional. Peningkatan pemanfaatan TPF ini berpotensi menghadirkan dampak yang signifikan. Skripsi ini menggunakan metode penelitian yuridis normatif dengan menganalisis data sekunder dari studi literatur, terutama ICSID Rules and Regulations setelah amandemen keempat. Amandemen ini menghadirkan aturan baru terkait praktik TPF, yakni Pasal 14 dalam ICSID Arbitration Rules tentang Notice of Third-Party Funding. Analisis Skripsi ini terutama difokuskan pada potensi dampak pengaturan baru terhadap praktik arbitrase investasi internasional, bagi Indonesia sebagai host state dalam ICSID, serta sebagai negara pelaksana arbitrase. Skripsi ini diharapkan dapat mendukung implementasi TPF yang lebih mengutamakan akses keadilan berdasarkan prinsip-prinsip Konvensi ICSID, menganalisis hambatan dan tantangan yang mungkin dihadapi oleh Indonesia di kemudian hari, serta dampak yang mungkin dihadirkan terhadap pengaturan arbitrase di Indonesia.

.....Third-Party Funding is a method in which a funder provides funds to one of the parties in a dispute to initiate a claim or minimize cash flow disruption. If the case is won, the funder will receive a share of the final award obtained. TPF was originally used in litigation in several jurisdictions, but is now increasingly popular in international investment arbitration. The increased use of TPF potentially presents significant implications. This thesis employs a normative legal research method by analyzing secondary data from literature studies, especially the ICSID Rules and Regulations after the fourth amendment. The amendment introduces new rules related to TPF practices, namely Article 14 in the ICSID Arbitration Rules concerning Notice of Third-Party Funding. This thesis analysis mainly focuses on the potential implications of the new regulation on international investment arbitration practices, for Indonesia as a host state in ICSID and a state that implements arbitration. This thesis is expected to support the implementation of TPF that prioritizes access to justice based on the principles of the ICSID Convention, analyze barriers and challenges that Indonesia may face in the future, and the potential impact on arbitration regulations in Indonesia.