

## ABSTRAK

### PERLINDUNGAN HUKUM BAGI INVESTOR ASING DARI KERUGIAN NON KOMERSIAL DI INDONESIA

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Kebutuhan dana untuk membangun infrastruktur negara yang sangat besar membuat Indonesia tidak hanya membutuhkan pendanaan dalam negeri tetapi membutuhkan pendanaan asing juga. Agar penanam modal asing bersedia menanamkan modalnya di Indonesia, diperlukan perlindungan hukum bagi penanam modal asing salah satunya mengenai kerugian non komersial. Penelitian ini memberikan perlindungan hukum bagi penanam modal asing berdasarkan Undang-Undang Nomor 25 Tahun 2007 Tentang Penanaman Modal serta upaya hukum yang dapat dilakukan oleh investor asing dalam mengatasi kerugian non komersial di Indonesia. Metode penelitian yang digunakan adalah penelitian yuridis normatif dengan pendekatan masalah secara perundang-undangan serta dianalisis secara kualitatif.

Hasil penelitian menunjukkan: (1) Undang-Undang Nomor 25 Tahun 2007 Tentang Penanaman Modal menjamin adanya perlakuan yang sama pada penanam modal dalam negeri dan penanam modal asing dengan mengadopsi prinsip *Most favoured nation* serta *National Treatment*. Jaminan yang diberikan salah satunya kerugian non komersial di Indonesia yaitu Pasal 7 ayat 1, pemerintah tidak akan melakukan tindakan nasionalisasi atau pengambilalihan hak kepemilikan penanam modal, kecuali dengan undang-undang. Namun apabila terjadi nasionalisasi, pemerintah telah mengatur kompensasi pada Pasal 7 ayat 2, melalui keputusan yang dicapai dengan perundingan antara pemerintah Indonesia dengan penanam modal asing. (2) Upaya hukum yang dapat dilakukan oleh penanam modal asing adalah melakukan klaim atas kerugian non komersial melalui arbitrase internasional seperti *Bilateral Investment Treaties* (BIT), *International Centre for the Settlement of Investment Dispute* (ICSID), dan *Multilateral Investment Guaranteed Agency* (MIGA).

Kesimpulannya adalah Indonesia perlu memberikan kepastian hukum untuk meminimalisir kerugian non komersial dengan saran Pemerintah harus tegas dan adil dalam melaksanakan regulasi penanaman modal.

**Kata Kunci:** Perlindungan Hukum, Penanaman Modal Asing, Risiko Non Komersial

***Abstract***

***LEGAL PROTECTION FOR FOREIGN INVESTORS FROM NON-COMMERCIAL LOSS IN INDONESIA***

***By***

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*The need for funds to build up the Indonesia's infrastructure is very considerable, so Indonesia is dependent not only on domestic but also on foreign funds. To get the foreign investors are willing to invest their capital in indonesia , needed legal protection for foreign investors one concerns loss non commercial. This study provide legal protection for foreign investment based on Investment Law No. 25 of 2007 and also to the law can be done by foreign investors in addressing the non commercial losses in indonesia. The methodology used is the study juridical normative with an approach according to the provisions of the law and analyzed qualitatively.*

*The research result presenting: 1. Law Number 25 of 2007 concerning Investment has guaranteed equal treatment for domestic investors and foreign investors by adopting the principles of Most favored nation and National Treatment. One of the guarantees provided is non-commercial losses in Indonesia, namely Article 7 paragraph 1, the Government will not take nationalization or take over investors' ownership rights, except by law. However, in the event of nationalization, the government has regulated compensation in Article 7 paragraph 2, through a decision reached through negotiations between the Government of Indonesia and foreign investors. 2. Legal remedies that can be taken by foreign investors are to claim non-commercial losses through international arbitration such as Bilateral Investment Treaties (BIT), International Center for the Settlement of Investment Dispute (ICSID), and Multilateral Investment Guaranteed Agency (MIGA).*

*The conclusion is Indonesia needs to create legal certainty to minimize non-commercial losses, with suggestions that the government should be firm and fair in enforcing investment rules.*

**Keywords:**    ***Legal Protection, Foreign Direct Investment, Non-Commercial Risk***