

ABSTRAK

IMPLIKASI HUKUM LAPS SJK PASCA PERALIHAN KEWENANGAN DARI BAPMI DALAM SENGKETA PASAR MODAL (Studi Putusan No. 1218 B/Pdt.Sus-Arbt/2024)

Oleh:

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Peralihan kewenangan dari Badan Arbitrase Pasar Modal Indonesia (BAPMI) ke Lembaga Alternatif Penyelesaian Sengketa Sektor Jasa Keuangan (LAPS SJK) berdasarkan POJK No. 61/POJK.07/2020 menimbulkan persoalan hukum terkait keabsahan klausul arbitrase perjanjian pasar modal yang masih menunjuk BAPMI, sebagaimana terjadi dalam sengketa antara PT Vivaces Prabu Investment (PT VPI) dan PT Nonghyup Korindo Sekuritas Indonesia (PT NKSI) yang diputus melalui Putusan Mahkamah Agung No. 1218 B/Pdt.Sus-Arbt/2024. Penelitian ini membahas terkait duduk perkara, pertimbangan Hakim Kasasi, serta akibat hukum peralihan kewenangan.

Penelitian ini menggunakan jenis penelitian hukum normatif dengan tipe penelitian deskriptif dan pendekatan peraturan perundang-undangan, pendekatan kasus serta pendekatan konseptual. Data yang digunakan yaitu data sekunder yang terdiri dari bahan hukum primer, sekunder, dan tersier. Metode pengumpulan data melalui studi kepustakaan dan studi dokumen. Pengolahan data melalui tahap pemeriksaan data, sistematisasi data, dan deskripsi data yang dianalisis secara kualitatif.

Hasil pembahasan menunjukkan bahwa peralihan kewenangan dari BAPMI kepada LAPS SJK terjadi secara hukum melalui POJK No. 61/POJK.07/2020 yang mengintegrasikan seluruh lembaga penyelesaian sengketa sektor jasa keuangan menjadi satu wadah. Klausul arbitrase yang menunjuk BAPMI tetap dinyatakan sah, dengan kewenangan beralih kepada LAPS SJK. Mahkamah Agung dalam Putusan No. 1218 B/Pdt.Sus-Arbt/2024 menguatkan putusan arbitrase LAPS SJK serta menegaskan prinsip *pacta sunt servanda* dan sifat *final and binding* putusan arbitrase. Keberatan PT VPI atas dasar ketiadaan kesepakatan dinyatakan tidak relevan karena tidak memenuhi alasan pembatalan dalam Pasal 70 UU Arbitrase. Selain menegaskan kompetensi absolut dan memperkuat legitimasi LAPS SJK, putusan ini juga memberikan kepastian hukum terhadap keberlakuan klausul arbitrase yang telah ada sebelum peralihan kelembagaan.

Kata Kunci: *Arbitrase, BAPMI, Implikasi Hukum, LAPS SJK.*

ABSTRACT**LEGAL IMPLICATIONS OF LAPS SJK FOLLOWING THE TRANSFER OF
AUTHORITY FROM BAPMI IN CAPITAL MARKET DISPUTES
(Study of Decision Number 1218 B/Pdt.Sus-Arbt/2024)****By:****PUTRI AKMALIA ZAHRA RASYID**

The transfer of authority from the Indonesian Capital Market Arbitration Board (BAPMI) to the Financial Services Sector Alternative Dispute Resolution Institution (LAPS SJK) based on POJK No. 61/POJK.07/2020 raises legal issues regarding the validity of arbitration clauses in capital market agreements that still refer to BAPMI, as occurred in the dispute between PT Vivaces Prabu Investment (PT VPI) and PT Nonghyup Korindo Sekuritas Indonesia (PT NKSI), which was decided through Supreme Court Decision No. 1218 B/Pdt.Sus-Arbt/2024. This study examines the case background, the considerations of the cassation judges, and the legal consequences of the transfer of authority.

This research employs a normative legal research method with a descriptive type and utilizes statutory, case, and conceptual approaches. The data used are secondary data consisting of primary, secondary, and tertiary legal materials. Data collection methods include literature study and document study. Data processing is carried out through stages of data examination, systematization, and description, which are analyzed qualitatively.

The results of the study indicate that the transfer of authority from BAPMI to LAPS SJK occurred legally through POJK No. 61/POJK.07/2020, which integrates all dispute resolution institutions in the financial services sector into a single body. Arbitration clauses referring to BAPMI remain valid, with authority transferred to LAPS SJK. The Supreme Court, in Decision No. 1218 B/Pdt.Sus-Arbt/2024, upheld the LAPS SJK arbitration award and reaffirmed the principle of pacta sunt servanda as well as the final and binding nature of arbitration awards. PT VPI's objection on the grounds of the absence of a new agreement was deemed irrelevant as it did not meet the grounds for annulment under Article 70 of the Arbitration Law. In addition to affirming absolute competence and strengthening the legitimacy of LAPS SJK, this decision also provides legal certainty regarding the validity of arbitration clauses established prior to the institutional transition.

Keywords: Arbitration, BAPMI, LAPS SJK , Legal Implications.