

## **ABSTRAK**

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### **ANALISA ASPEK KEPASTIAN HUKUM PADA KLAUSULA ARBITRASE DALAM PERJANJIAN INVESTASI (Studi Kasus PT. Cipta Televisi Pendidikan Indonesia Melawan PT. Berkah Karya Bersama)**

(xii + 94 halaman : 2 gambar)

Klausula arbitrase merupakan suatu bentuk perjanjian, dalam suatu perjanjian investasi yang didalamnya terdapat klausula arbitrase telah memenuhi unsur - unsur kesepakatan arbitrase, sehingga mekanisme arbitrase baik melalui Badan Arbitrase Nasional Indonesia (BANI) ataupun Arbitrase Adhoc merupakan lembaga/forum yang berwenang untuk memeriksa dan memutuskan sengketa yang timbul antara para pihak dan pengadilan negeri tidak berwenang untuk memeriksa dan memutus sengketa yang didalamnya terkandung klausula perjanjian arbitrase. Penerapan hukum tentang arbitrase dan alternatif penyelesaian sengketa di Indonesia sampai saat ini belum mencerminkan makna Undang-Undang Nomor 30 Tahun 1999 Tentang Arbitrase dan Alternatif Penyelesaian Sengketa yang mengarah kepada mekanisme penyelesaian suatu sengketa perdata di luar peradilan umum yang didasarkan pada perjanjian arbitrase yang dibuat secara tertulis oleh para pihak yang bersengketa. Undang-undang yang mengatur tentang arbitrase dan alternatif penyelesaian sengketa menyatakan secara tegas dan jelas pemahaman tentang pengertian arbitrase dan alternatif penyelesaian sengketa berikut penerapannya. Fenomena sengketa kontrak bisnis yang didalamnya terdapat klausula arbitrase pada kenyataannya diselesaikan melalui mekanisme pengadilan negeri sudah merusak asas kepastian hukum. Dengan demikian sebaiknya diarahkan untuk mewujudkan kepastian hukum tersebut melalui harmonisasi hukum dari berbagai sumber hukum yang mengatur arbitrase dan alternatif penyelesaian sengketa.

Kata Kunci : Kepastian Hukum, Klausula Arbitrase, Perjanjian Investasi

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### **ANALYSIS OF CERTAIN LEGAL ASPECTS OF ARBITRATION CLAUSE IN INVESTMENT AGREEMENTS (A Case Study of PT . Cipta Televisi Pendidikan Indonesia Against PT. Berkah Karya Bersama)**

(xii + 94 pages : 2 images)

The arbitration clause is an agreement form, in an investment agreement in which there are arbitration clause has fulfilled the elements of an agreement of arbitration, so that the mechanism of arbitration either through the Indonesia National Board of Arbitration (BANI) or the Arbitration Adhoc is the institution / forum competent to hear and determine disputes arising between the parties and the district court was not authorized to examine and rule on the dispute that it contains a arbitration clause agreement. The implementation of laws on arbitration and alternative dispute resolutions in Indonesia has yet to reflect the true understanding of Law Number 30 of 1999 on Arbitration and Alternative Dispute Resolution. The article lays out a mechanism for the settlement of civil disputes outside the public courts, which is based on mutual agreements to arbitration and which must be made in writing by the parties involved in a dispute. Although the legislation governing arbitration and alternative dispute resolutions states explicitly and clearly what arbitration and alternative dispute resolutions entail along with aspects of their application, in reality, disputes related to business contracts with arbitration clauses on are still referred to district courts is destroying the principle of certain legal. Therefore, the certainty and clarity of this legal aspect must be achieved through the process of consulting various legal sources concerning arbitration and alternative dispute resolutions.

Keywords : Certain Legal, Arbitration Clause, Investment Agreement