

ABSTRACT

Elsa Victoria (01051170031)

LEGAL ASPECTS OF MINING BUSINESS LICENSE REVOCATION FOR FOREIGN INVESTMENT COMPANY CASE STUDY NUMBER 26/G/2017/PTUN-PLG

(xi+213 pages; 2 attachments)

Global mining companies consistently rank Indonesia highly in terms of its coal and mineral prospects, yet assessments of the mining policy regime and the investment climate have not been so positive. Continuing uncertainty regarding the regulatory environment for mining in Indonesia has dampened the appetite for investment. Both the central and regional governments play vital roles in the mining industry, by setting national mining policies, standards, guidelines, and criteria, as well as deciding on mining authorisation procedures. It was hoped that the mining law and its supporting framework of implementing regulations would provide investors with the necessary regulatory certainty to spur new investment and strengthen Indonesia's position as a key player in the mining sector. This theses uses Case Number: 26/G/2017/PTUN-PLG which the Governor of South Sumatera revoked PMA company's IUP through the Decree of the Governor of South Sumatera Number 724/KPTS/DISPERTAMBEN/2016. Based on the Regional Autonomy Law No. 23/2014, Appendix CC regarding the Division of Government Affairs in the sector of energy and mineral resources, sub-affairs number 2, the Central Government now has greater control over the process of issuing mining business licences especially for issuing IUP for PMA companies. The Exploration IUP, Operation Production IUP, Operation Production Specifically for Processing and/or Refining IUP, Operation Production Specifically for Transportation and Sales IUP, and Mining Services Business Licences that are issued to PMA companies are granted by the Minister of Energy and Mineral Resources. This research is normative legal research with legal principles approach, namely by examining law theories, doctrines, judicial case study, and statutory regulations related to this research. The result of this research shows that the Decree of the Governor of South Sumatera Number 724/KPTS/DISPERTAMBEN/2016 was invalid because the Governor of South Sumatera was not authorized to revoked the IUP belonging to the PMA company in accordance to Regional Autonomy Law No. 23/2014 and this creates legal uncertainty in foreign direct investment in Indonesia especially the mining industry.

Keyword: Legal Certainty, Foreign Investment Company, Government Authority, Mining Industry, Mining Business License (IUP)

Reference: 116 (1945- 2020)