



# Legal Protection for Investment in Indonesia

Yusna Wulan Sari Tanung

Sekolah Tinggi Ilmu Hukum dan Politik (STIHP) Pelopor Bangsa  
Jl. Arif Rahman Hakim No.3, Kemiri Muka, Kecamatan Beji, Kota Depok, Jawa Barat  
16431

Email : yusnawulan04@gmail.com

## ***Abstract***

As a sovereign and prosperous legal state, Indonesia is very concerned about all forms that are directly related to its people, this is the government's concern for the development and growth of the national economy, which in fact is still far from being expected. This study uses a descriptive method with a qualitative approach and data triangulation analysis, the results of the study explain that national development efforts through investment and foreign investment activities will actually have a positive impact on the growth and development of the national economy, in addition to holding these activities able to develop various sectors in the government. Indonesia, it is hoped that through foreign investment, the national economy can develop rapidly, because the responsibility for national growth is a shared responsibility and must be carried out with laws and values in accordance with the constitution and Pancasila as the legal basis of the Indonesian nation.

**Keywords:** Law, Investment, Actors

## **1. Introduction**

The economic development of a country basically always experiences growth and decline in each generation, this is of course influenced by various factors and one of them, is the increasingly uncontrollable cycle of global economic competition with many foreign investors entering a country and investing. in various products and necessities of daily life, but these actions, basically, must be carried out by a country in its efforts to improve the development and welfare of its people, the trade and investment economy are not only complementary, but increasingly inseparable as two sides in the process of development in the era of globalization (Fadlia&Yunanto, 2015; Pramita&Hendrayana, 2021).

The capital market has a very important role in the pace of economic development of a country, therefore each country competes with each other and rotates strategies in order to invest various stocks and investments to match the expected target, in the realm of the global market meeting between developed countries and developing countries. Developing countries cannot be avoided anymore, the status of the two countries will basically complement each other and contribute to each other, to carry out a cooperative practice in the field of investment

and capital as an effort to improve the economy so that it goes in a more profitable direction. As an alternative for a country in developing its economic growth, investment and investment activities have developed rapidly in Indonesia, these activities seem to be able to encourage a better national economic growth rate and participate in assisting government programs in its efforts to improve the welfare of the wider community through inequality. evenly distributed across various trade sectors (Seran, 2014; Achmad, 2021).

The very rapid development of economics and communication also has an impact on the increase in the industrial world which every year produces various types of goods and services that are innovative and varied, of course, with increasing competition that occurs in the global market, the level of investment and capital in a country will experience rapid growth (Dewi, 2018; Julianti&Subekti, 2018). very high, because each country has a different way of improving the development, welfare and prosperity of its people, in Indonesia itself economic and industrial growth falls under the authority of the government and the president as the holder of control of a sovereign state system and has legal foundations that are strong, all policies and regulations made by the government are based on the preamble to the 1945 Constitution which states that "Then from that to form a government of the State of Indonesia which protects the entire Indonesian nation and all of its bloodshed". h Indonesia and to promote public welfare, educate the nation's life, and participate in carrying out world order based on freedom, eternal peace and social justice. From the description of the preamble to the Constitution, we can conclude that the government has a noble goal in its efforts to create a just, prosperous and prosperous society both materially and in the fulfillment of knowledge (Sujatmiko&Suryanti, 2017; Saputra&Wardana, 2021).

As we know that the process of investment and investment, in a country, has a very vital contribution, in the effort of economic growth and development, because these actions can actually encourage and develop more advanced economic activities and are mutually beneficial to both parties. With the presence of foreign investors who participate in enlivening the competition in the national economy, it is hoped that it will be a part of the government's efforts to organize an ideal economic system, and be placed in efforts to increase national development in a sustainable manner as well as increase the capacity and capability of national technology and create a more prosperous society. as a capital for competition with other countries, besides that the government has also made legal and regulatory umbrellas in the field of investment, including Law no. 1 of 1967, Law no. 11 of 1970 concerning Foreign Investment, Law no. 6 of 1968 Law no. 12 of 1970 concerning Domestic Investment, later amended by Law no. 25 of 2007 concerning Investment (Rahmadani et al, 2016).

If the agreement and work agreement have been completed in accordance with applicable legal procedures, then the next step is for an investor to conduct a comprehensive feasibility study to ensure that all preparations and preparations regarding the technique of implementing the investment program can be carried out in an orderly and peaceful manner. an investor, the regulation of applicable and sovereign legal provisions, becomes a condition that must be fulfilled because the competent law is needed for a business prospect that is run for a long time, another benefit that can be felt by an investor when he gets a legal guarantee that applies in

Indonesia. a country is that if there is a loss and misunderstanding about capital and employment prospects, the problem can be resolved by taking refuge in the applicable legal provisions because it is proper in an employment relationship that both parties will try to work together. as hard as possible to get commensurate protection and benefits (Sari &Herlina, 2020).

As we know the sources of national funds for the Indonesian government are indeed very limited in number, so that in this case the government always seeks various ways so that all government programs can be carried out on time and do not experience obstacles, the presence of foreign investors who enter and enliven the competition in the national economy is actually very have a positive impact in accelerating the pace of economic growth in Indonesia, as a source of national funds, foreign investment that enters the realm of domestic development funding, has the potential to bring various benefits that can be obtained by all Indonesian people, because basically Indonesia as one of the one of the developing countries in the world, is greatly benefited by the flow of foreign funds, this is because foreign investors not only transfer capital goods, but also transfer knowledge and human capital to Indonesia and other countries. In other developing countries, foreign investment has a direct contribution to planned national development, in fact the government has officially issued and formulated a law governing foreign investment, which is contained in Article 1 Number 3 of Law Number 25 of 2007 concerning Investment Capital formulates the definition of foreign investment as an activity of investing in conducting business in the territory of the Republic of Indonesia which is carried out by foreign investors, either using fully foreign capital or in joint ventures with domestic investors.

## **2. Approach Method**

This study uses descriptive analysis using qualitative methods. Researchers also want to examine a phenomenon that discusses legal protection for investment actors in Indonesia, qualitative research is aimed at a very detailed and detailed study where the results of the research are studied in depth and then interpreted clearly. There are two sources of data used in this study, where the data includes primary data and also secondary data, then the facts of the findings are described in a very easy form of discussion so that researchers can find a complex and structured understanding in a directed manner.

## **3. Result and Discussion**

### **3.1 Foreign Investment and Investment in Indonesia**

Investment activities have now occurred in almost every developed and developing country in various parts of the world, this is based on the fact that these actions have a positive influence on a country, one of which is that investment can develop a very fast rate of economic growth along with the development of natural resources. It is undeniable that investment is a source of economic driving and a carrier of change in various fields of state, the global era has brought a very significant effect, especially in terms of investing, in essence investments made in a country can be sourced from outside flows. domestic and domestic, this foreign investment includes the flow of assets from one country to another with the aim of

making a profit, with supervision from the owner of the funds, some countries invest in money or property, this is done because the interests of each country are different and own very diverse purposes.

In detail, the act of investing and investing does not always bring a profit, there are times when the shares and capital that have been invested turn out to have less impact on the pace of a country's economy, of course, apart from being required to understand the conditions and circumstances of investors, other actions must be taken. try properly so that the investment process can be carried out carefully, similar conditions must be applied to domestic economic development, because according to some world experts, before a country takes investment action, one must know the developments that occur in the era of global markets. In addition to forming supporting factors in accordance with applicable general provisions is a necessity that cannot be avoided anymore, another supporting factor is the determination of a clear and sovereign law, the Capital Market can mean a place with a system that regulates procedures for meeting funding needs for a company. The capital market can also be interpreted as a place where people carry out buying and selling activities officially and sovereignly (Prananingtyas, 2018; Insar, 2019).

To support investment actions in accordance with applicable legal rules, special guidelines and appropriate regulations are needed in determining various legal consequences that can provide protection if the action experiences a problem or lack of proper communication so that there are many disputes and misunderstandings that occur in both parties. the country, as well as what happened in Indonesia, the government in this case has always been firm and carried out several special standards in the application of policies to foreign investors who want to invest and invest in various regions in Indonesia, this is done as a preventive measure if there are several breaches of contracts that have been previously agreed, in the implementation of foreign investment activities, it is possible for disputes to occur between foreign investors and the Government of Indonesia (Masnun, 2020). The dispute was caused by various reasons, including violation of investment contracts by investors or by the government, revocation of investment business licenses by the government.

As for some of the provision of security guarantees both materially and legally to investment actors who come from within the country and abroad, these guarantees are based on the respect of the Indonesian government for investment actors so that they always increase their contribution to the Indonesian economic development system, cannot be denied. deny that investment action is very much needed by the Indonesian state considering that various basic needs in meeting daily needs are increasing and undergoing very significant changes.

Furthermore, the understanding of investment is, activities to enter capital into a certain country territory through a permit from the government authority with the aim of getting income from the results of the business activities that have been carried out, the increasing era of globalization and communication of the role of investors or investment actors originating from foreign countries are increasing every year, these activities can be carried out in two ways, firstly, investment activities can be fully managed by foreign parties, or in the second way, namely the distribution of investment results in accordance with a mutual agreement, because in

the process, initial capital The investment comes from both parties. Foreign investment owners are classified as foreign countries, an individual or a foreign citizen, whether in the form of a business or industrial entity, and finally an Indonesian legal entity whose capital is partly or wholly owned by a foreign party, while according to Article 1 point 8 -Investment law, what is meant by foreign capital is capital owned by foreign countries, individual foreign citizens, foreign business entities, foreign legal entities, and/or Indonesian legal entities whose capital is partly or wholly owned by foreign parties (Mantulangi, 2017).

There are several conditions before making an investment, including efficiency, in this case an investor must accommodate as many transactions as possible in a short time, then conduct transactions in a neutral manner without going through intermediaries of other parties, then an investor must be observant in observing market developments. , when is the time for the product to be released and when not to produce it first, and the last is transparent, able to provide various channels of information quickly and responsively for the smooth investment of investment to match the expectations that have been previously targeted.

The high role of communication and information brings many changes to the system of human life, one of which is the increase in investment activities in several countries as one of the goals to conduct business activities or increase economic growth that occurs in a country. In need of economic improvement and development, the presence of an investment program and national economic growth has made the Indonesian government positively welcome the high number of foreign investors who are starting to invest their shares in various companies and industries in various regions in Indonesia. human resources who are more active and innovative in meeting their every need.

### **3.2 Legal Forms of Investment in Indonesia**

Basically the capital market does have very comprehensive benefits in various aspects of life in the world, besides that the capital market also has two different functions, but has a very absolute relationship, first, the capital market is functioned as an economic driver of a nation, because in In bringing together, very different interests, investors have sufficient funds to be developed in various ways, while the state needs the capital to be utilized as investment interests without having to wait for the availability of funds from the company's operations.

As for some of the benefits of the capital market that can affect the development of a country's business world, among others, the capital market provides the possibility and opportunity for a country to obtain various incomes and equitable economic growth in accordance with predetermined investment characteristics, then the capital market also provide a source of capital supply in the long term for business actors to further optimize the allocation of sources of funds to be more efficient and optimal, thirdly provide an investment vehicle for investors to further advance various businesses in order to accelerate the pace of economic growth in a country, other benefits from the capital market is the ownership of the company even at the level of society, and the last is the distribution of business ownership for a country in accordance with previously agreed legal policies and procedures (Napitupulu, 2021).

While related to the law concerning the capital market which is regulated by the government, it is stated in Law No. 8 of 1995 concerning the establishment of a legal and sovereign capital market, then government regulation no. 45 and 46 of 1995, regarding the implementation of activities in the capital market, and there is also the decision of the minister of finance, the decision of the chairman of BAPEPAM, lastly regulated in the regulations of the global stock exchange, the decision was taken based on several considerations which were felt to provide benefits and convenience for investors. investors and businesses. other than that as an alternative for investors in investing in various countries, in order to avoid crime and legal decisions that are not in accordance with reality (Hanim, 2014).

Until now the development of the investment climate in Indonesia has not shown a significant progress, but basically, the Indonesian state has a very high potential to develop investment growth in various ways, as for some obstacles or challenges for foreign investors in expanding their business network in Indonesia. Indonesia, firstly infrastructure development which is still inadequate and not evenly distributed in various regions in Indonesia, then labor problems that have not been resolved until now, the three regulatory problems, then the formation of the ideal bureaucracy has not been realized until now, the increase in human resources has not been evenly distributed , there are several regional decisions, ministers, laws that are not well connected, and finally the settlement of land disputes that are still not credible and efficient. Some of the explanations above illustrate how the internal technical problems that still occur in Indonesia have attracted foreign investors to invest more, their capital in Indonesia.

Basically, the obligation of a country to guarantee the implementation of an investment activity is an absolute part that must be fulfilled and carried out properly, in addition, the relevant government can also guarantee legal certainty and safety for foreign investors so that they can contribute more to the realization of economic fulfillment as a one of the benefits that come from these investment activities. The legal certainty factor is the relationship provided by the government in its efforts to regulate capital receipts, and the form of the Indonesian government's commitment to providing guarantees to foreign investors can be seen in Law Number 25 of 2007 concerning Investment. In this law, there are several provisions related to the protection of foreign investors, including provisions regarding the provision of equal treatment to all investors (Article 6), provisions regarding nationalization and compensation (Article 7), and provisions regarding the transfer of assets and transfers and repatriation in foreign currency (Article 8 and Article 9). Discussing the implementation of several provisions of the Investment Law related to the protection of foreign investors against the (possible) risks faced by foreign investors

In fact, the implementation of investment and investment in various countries is an embodiment of the global economy based on the ethical and moral values of the nation, in which there are several laws and regulations concerning respect for position and providing protection, so that foreign investors can increase their contribution. In carrying out economic growth in Indonesia, the existence of these guarantees is expected to be a factor in creating a stable and controlled economic climate, because clearly legal protection for foreign investors has been contained in various state laws, according to Surdhana (2019), partially domestic investment has a

positive and significant impact on the economic growth of provinces in Indonesia in 2010-2013.

Legal protection for foreign investors in carrying out comprehensive investment actions in the Indonesian state is a sovereign authority and based on Indonesian law, namely the 1945 Constitution of the Republic of Indonesia, to advance the economic sector in various regions in Indonesia, there is an opportunity given by the Indonesian government to foreign investors, it is hoped that they will be able to bring local companies to penetrate the global market, to establish a partnership with various foreign companies and to compete in a healthy manner. national workforce network in order to gain a wide variety of experiences, because with the existence of a cooperation involving various countries in the world, hopefully it can strengthen diplomatic relations between countries around the world.

#### 4. Conclusion

The development of the globalization era has had a serious impact on the development of investment throughout the world, as well as in Indonesia, changes in the investment and investment sector have developed rapidly in recent years, the government through the minister of trade and industry has sought various ways to promote economic growth In order to be able to compete with developed countries in increasing global market competition, one of the efforts that has been taken by the Indonesian government is through foreign investment, with these activities it can accelerate the pace of economic growth and development in the country. the benefits of holding foreign investment can encourage national economic activities, transfer of technology and communication, create jobs, and provide other benefits that end in the creation of people's welfare, in addition to increasing human resources. can grow quickly and provide the widest opportunity for local entrepreneurs to be able to compete and gain a lot of valuable experience from the holding of foreign investment, in addition to that legal supervision must still be considered because with the existence of legal protection it can minimize incidents and disputes among the countries that are in the process of entering into the cooperation agreement.

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