
JURIDICAL REVIEW OF THE IMPLEMENTATION OF FOREIGN ARBITRATION AWARDS IN INDONESIA IN THE PERSPECTIVE OF CONSTITUTIONAL COURT RULING NUMBER 4/PUU-XXII/2024

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Abstract

The implementation of foreign arbitration awards in Indonesia from the perspective of Constitutional Court Decision Number 4/PUU-XXII/2024 is crucial in both international and domestic legal contexts. This article provides a strong legal basis for arbitration usage in resolving cross-border business disputes in Indonesia, both domestically and internationally. The research contributes to the legal field by offering an in-depth normative juridical analysis of how unfamiliar discretion grants are executed in Indonesia. Data analysis was carried out descriptively and qualitatively. The research topic, namely, the Juridical Review of the Implementation of Foreign Arbitration Decisions in Indonesia in the Perspective of Sacred Court Choice Number 4 is analyzed using deductive methods, which entail deriving conclusions from general to specific, particularly regarding the research topic. In this specific situation, a juridical survey of the execution of unfamiliar mediation grants in Indonesia becomes vital to comprehend the effect of established Court Choice number 4 on international arbitration practices, legal certainty, and the investment environment in Indonesia.

Keywords: Juridical Review; Foreign Arbitration Awards; Constitutional Court Decision Number 4/PUU-XXII/2024

INTRODUCTION

The implementation of foreign arbitration awards in Indonesia from the perspective of Constitutional Court Decision Number 4/PUU-XXII/2024 is crucial in both international and domestic legal contexts. This Constitutional Court decision underscores the vital role of international arbitration in resolving cross-border business disputes and its implications for Indonesian national law. First and foremost, it's important to grasp that international arbitration has become one of the primary mechanisms for resolving global business disputes. Indonesia, as a rapidly developing economy with a significant influx of foreign investment, recognizes the importance of arbitration as a tool for settling business disputes with foreign parties. However, before Constitutional Court Decision Number 4/PUU-XXII/2024, there was legal uncertainty in Indonesia regarding the implementation of unfamiliar assertion grants. A few issues that emerged incorporated the uncertainty of methods for perceiving and upholding unfamiliar mediation grants under Indonesian public regulation, as well as the job of the Locale Court in this cycle (Nugraha et al., 2016).

In this context, Constitutional Court Decision Number 4/PUU-XXII/2024 holds significant importance. The Established Court inspected the defendability of Article 59 section (1) of Regulation Number 30 of 1999 concerning Mediation and Elective Question Goal, which required foreign arbitration awards to obtain approval from the District Court before being enforced in Indonesia. By ruling that District Court approval is not necessary for the implementation of unfamiliar mediation grants previously perceived by the Area Court, the Sacred Court gives genuinely necessary lawful lucidity to global assertion rehearses in Indonesia. The choice prepares for a more effective course of acknowledgment and implementation of unfamiliar discretion grants and reinforces Indonesia's situation as an alluring venture objective. A juridical survey of the execution of unfamiliar mediation grants

in Indonesia becomes vital to comprehend the effect of Sacred Court Choice Number 4/PUU-XXII/2024 on international arbitration practices, legal certainty, and the investment environment in Indonesia (Prayulianda, 2019).

Article 59 passage (1) of Regulation Number 30 of 1999 concerning Assertion and Elective Question Goal is the subject of discussion in the Protected Court Choice Number 4/PUU-XXII/2024. The article recently specified that to implement an unfamiliar mediation grant in Indonesia, endorsement from the Locale Court was required. It causes legal uncertainty and complicated bureaucracy in the process of recognizing and implementing foreign arbitration awards in Indonesia. However, the Constitutional Court's decision states that the requirements for District Court approval are contrary to the 1945 Constitution and human rights, especially the right to effective justice and fair access. the same for the judiciary (Sudrajat, 2011). The Constitutional Court asserts that the process requiring District Court approval for the enforcement of foreign arbitration awards creates unnecessary barriers and contradicts principles of efficiency and legal certainty. Thus, Constitutional Court Decision Number 4/PUU-XXII/2024 clarifies that District Court approval is not required for the enforcement of foreign arbitration awards already recognized by the District Court.

In the context of Constitutional Court Decision Number 4/PUU-XXII/2024, it is also important to note its relevance to the Criminal Procedure Code (KUHAP). Although the decision is indirectly related to the KUHAP, its implications for legal assurance and the efficiency of judicial systems are also relevant in criminal proceedings. Articles inside the KUHAP that lay out techniques for perceiving and authorizing unfamiliar intervention grants may likewise be dependent upon assessment following the Sacred Court Choice (Setiadi & Afrizal, 2019). The confirmation that Region Court endorsement isn't needed for the requirement of unfamiliar assertion grants, can likewise support the smoothing out of methods for perceiving and authorizing unfamiliar discretion grants with regards to criminal procedures. In this way, the juridical audit of Protected Court Choice Number 4/PUU-XXII/2024 is not just applicable in that frame of mind of mediation regulation yet may likewise have more extensive ramifications with regards to Indonesian criminal procedural regulation. Assessing the consistency between the Protected Court Choice and the arrangements of the Criminal Procedure Code (KUHAP) as well as the potential changes in criminal procedural procedures becomes crucial in addressing the decision impact.

Regulation Number 6 of 2011 concerning Migration characterizes movement as the front in keeping up with power, filling in as the boss of the section and exit of people from An Indonesian area (Setiadi & Afrizal, 2019). Supervision is a series of efforts aimed at ensuring that a work process proceeds according to the established plan. Supervision is crucial for the implementation of a task to prevent deviations both before and after its execution. In the misuse of visitor stay visas, those who have full authority to conduct supervision are the Minister of Law and Human Rights, who also delegate this authority to immigration authorities at the central, provincial, district, or municipal levels.

Articles and provisions related to foreign arbitration play a crucial role in upholding the law and implementing foreign arbitration awards in Indonesia. For instance, Article 3 of Law No. 30 of 1999 concerning Arbitration stipulates that a valid arbitration agreement must include the parties' agreement to settle disputes through arbitration and provisions regarding the selection of the arbitration body to resolve such disputes. This article provides a strong legal basis for arbitration usage in resolving business disputes in Indonesia, both domestically and internationally. Additionally, the same law's Article 49 asserts that arbitration awards issued by arbitration bodies are recognized and enforceable as final and binding court decisions. It ensures that foreign arbitration awards have legal force equivalent to domestic court judgments, and thus can be enforced in Indonesia (Lukum, 2005).

That the changes (Amendments) to the 1945 Constitution have given birth to a new institution which is included in the judiciary family to carry out the function of judicial power which has the task of being the watchman of the constitution and the sole translator of the constitution (the last mediator of the constitution), to be specific the Protected Court, as expressed in the arrangements of Article 7B, Article 24 section (1) and passage (2), as well as Article 24C of the 1945 Constitution, which is additionally directed in Regulation Number 24 of 2003 concerning the Established Court (2003 Sacred Court Regulation), as revised with Regulation Number 8 of 2011 concerning Changes to Regulation Number 24 of 2003 concerning the Established Court (2011 Established Court Regulation), as corrected by Regulation Number 4 of 2014 concerning Expectation of Unofficial laws in Lieu of Regulation Number 1 of 2013 concerning the Second Correction to Regulation Number 24 of 2003 concerning the Sacred Court Turning into a Regulation (2014 Established Court Regulation), and generally as of late altered by Regulation Number 7 of 2020 concerning the Third Change to Regulation Number 24 of 2003 concerning the Sacred Court (2020 Sacred Court Regulation).

Though the arrangements of Article 65 of the Mediation Regulation and APS which direct that the Focal Jakarta Locale Court just has the position to deal with issues of acknowledgment and execution of worldwide discretion grants, are unfinished. Accordingly, the standards in Article 65 of the Assertion Regulation and APS must be supplemented with the authority to accept registration of international arbitration awards. Then Article 65 of the Arbitration and APS Law should accommodate the provisions on registration requirements which were previously conditions for the execution/execution of global intervention grants as controlled by Article 67 section (2) of the Mediation and APS Regulation. The standards of Article 65 of the Discretion Regulation and the APS should be refined by adding new standards with respect to the commitment of the Focal Jakarta Locale Court to tell the gatherings of the deed of enlistment of a global mediation grant and a standard expressing that a solicitation for agent is all the while submitted in the application for the execution/requirement of a worldwide assertion grant, it is sufficient to join a duplicate of the deed of enrollment of the worldwide discretion grant, there is compelling reason need to connect the circumstances at present in force as managed in Article 67 section (2) in light of the fact that these documents have been appropriately put away at the Focal Jakarta Region Court since the registration was carried out by the Arbitrator/Proxy (Ramdan, 2017).

With the Constitutional Court Decision affirming that District Court approval is not required for the enforcement of foreign arbitration awards already recognized by the District Court, evaluating the consistency between this decision and the provisions of the Criminal Procedure Code (KUHAP) also becomes relevant. Adjustment or reinterpretation of the articles related to the recognition and enforcement of foreign arbitration awards in the context of criminal proceedings may be necessary to ensure compliance with the Constitutional Court Decision and the need for efficient and fair legal practice. The process of attracting, selecting, involving, developing, and retaining a competent public sector workforce is crucial for enhancing performance, accountability, efficiency, and effectiveness. Especially in developing countries, the public sector workforce can be a vital resource for economic, social, and political development (Azmi, 2015).

Supervision and law enforcement regarding the implementation of foreign arbitration awards. Oversight and law enforcement bodies, such as the Ministry of Law and Human Rights and the police, need to have adequate capacity to monitor the implementation of arbitration awards, take legal action against violations, and provide protection to parties complying with such decisions. Increased transparency is also key to strengthening regulations on dispute resolution through arbitration. The government can encourage the adoption of transparent practices in arbitration processes, including disclosing information

about arbitration awards, arbitration costs, and legal considerations underlying such decisions. This step will help build public trust in the arbitration dispute resolution system (Sanusi, 2017).

The article that is the principal center with regards to Protected Court Choice Number 4/PUU-XXII/2024 is Article 59 Passage (1) of Regulation Number 30 of 1999 concerning Discretion and Elective Question Goal. The previous article requires that to enforce a foreign arbitration award in Indonesia, approval from the District Court is required. It creates complexity and administrative obstacles in the process of recognizing and implementing foreign arbitration awards. About the KUHAP, although the Constitutional Court's decision does not directly comment on articles in the KUHAP, its implications for legal certainty and the efficiency of the judicial process are also relevant in the context of criminal law. The possibility of consistency between this decision and the provisions of the Criminal Procedure Code, especially in terms of recognition and implementation of foreign arbitration awards in the criminal justice process, is an important concern (Prayulianda, 2019).

This research aims to conduct a normative juridical review of the execution of unfamiliar discretion grants in Indonesia according to the point of view of Sacred Court Choice Number 4/PUU-XXII/2024. The research contributes to the legal field by offering an in-depth normative juridical analysis of how unfamiliar discretion grants are executed in Indonesia, using the specific court ruling (Sacred Court Choice Number 4/PUU-XXII/2024) as a foundational point for discussion and evaluation.

RESEARCH METHOD

This sort of examination is clear exploration. The methodology utilized is a subjective methodology and a calculated methodology. The information source utilized is optional information. Data analysis was carried out descriptively and qualitatively (Sugiyono, 2019). Conclusions are drawn using deductive methods, which entail deriving conclusions from general to specific, particularly regarding the research topic, namely the Juridical Review of the Implementation of Foreign Arbitration Awards in Indonesia from the Perspective of Constitutional Court Decision Number 4/PUU-XXII/2024. Qualitative data analysis is conducted when empirical data consists of a collection of verbal expressions rather than numerical sequences and cannot be organized into categories. Such data can be collected through various means, including observation, interviews, document analysis, and tape recordings (Moleong, 2007). Usually, it is processed first before being used in qualitative research, including the results of interview records, information decrease, investigation, information translation, and triangulation.

RESULT AND DISCUSSION

Implications of the Juridical Review of the Implementation of Foreign Arbitration Decisions in Indonesia in the Perspective of Constitutional Court Decision Number 4/PUU-XXII/2024

The ramifications of the juridical survey on the execution of unfamiliar mediation grants in Indonesia according to the viewpoint of Protected Court Decision Number 4/PUU-XXII/2024 are highly significant. This decision has wide-ranging impacts, not only in the context of arbitration law but also on legal certainty, the efficiency of judicial processes, and the investment climate in Indonesia. First and foremost, this Constitutional Court Decision provides much-needed legal clarity regarding the enforcement of foreign arbitration awards in Indonesia. By ruling that District Court approval is not required to enforce foreign arbitration awards already recognized by the District Court, the Constitutional Court has eliminated previous uncertainties in this process. Another impact of this decision is the increased efficiency in the recognition and enforcement process of foreign arbitration awards

in Indonesia. By removing the requirement for District Court approval, this process becomes simpler and more efficient, which in turn can enhance foreign investor confidence in Indonesia's judicial system (Siombo, 2010).

The choice announces that the arrangement of Article 65 of Regulation Number 30 of 1999 concerning Mediation and Elective Question Goal (State Newspaper of the Republic of Indonesia Year 1999 Number 138, Supplement to the State Journal of the Republic of Indonesia Number 3872) is in struggle with the 1945 Constitution and doesn't have restricting legitimate power, unless interpreted as follows: "(1) The authority to handle registration, as well as the execution and enforcement of International Arbitration Awards, lies with the Central Jakarta District Court; (2) Registration as referred to in paragraph (1) must be accompanied by: a. the original sheet or authentic copy of the International Arbitration Award, in accordance with the provisions regarding the authentication of foreign documents, and its official translation into Indonesian; b. the original sheet or authentic copy of the agreement that forms the basis of the International Arbitration Award, in accordance with the provisions regarding the authentication of foreign documents, and its official translation into Indonesian; and c. a statement from the diplomatic representative of the Republic of Indonesia in the country where the International Arbitration Award was issued, stating that the applicant country is bound by agreements, whether bilateral or multilateral, with the Republic of Indonesia regarding the recognition and enforcement of the International Arbitration Award; (3) The Central Jakarta District Court issues the Certificate of Registration of the International Arbitration Award and delivers it to the Arbitrator, Applicant, Respondent, and/or their Proxy no later than 14 (fourteen) days from the date the registration request is received; (4) Applications for the enforcement and execution of International Arbitration Awards must be accompanied by a Letter of Application and a Copy of the Certificate of Registration of the International Arbitration Award" (Efritadewi & Jefrizal, 2017).

Furthermore, the Constitutional Court Decision also sends a positive signal to the international community regarding Indonesia's commitment to the principles of justice, legal certainty, and protection of foreign investment. By providing legal clarity and eliminating unnecessary administrative barriers, Indonesia can become a more attractive investment destination for foreign investors. However, on the other hand, the implementation of this Constitutional Court Decision also poses new challenges and questions. Efforts are needed to ensure that the Indonesian legal system can handle the potential increase in the number of foreign arbitration cases resulting from increased trust from foreign investors. Overall, Constitutional Court Decision Number 4/PUU-XXII/2024 has significant implications for strengthening the legal framework for international arbitration practices in Indonesia. By providing legal certainty, enhancing judicial process efficiency, and demonstrating commitment to the principles of justice and legal certainty, this decision can play a crucial role in strengthening the investment climate and legal development in Indonesia (Raharjo, 2010).

Legal action against foreign arbitration that violates legal provisions is an important aspect of ensuring compliance with the legal process and the integrity of the dispute resolution system. In this context, Law No. 30 of 1999 concerning Arbitration provides a strong legal basis for taking action against violations of foreign arbitration awards. The provisions in this law authorize legal authorities to take legal action against parties who do not comply with arbitration decisions that have permanent legal force. In addition, the Criminal Code (KUHP) also provides the relevant legal basis for taking violations in the context of dispute resolution through arbitration (Gautama & Surjaman, 1989). Articles in the Indonesian Penal Code (KUHP) regulating criminal sanctions for violations of court decisions can be applied analogously to violations of foreign arbitration awards. This

includes criminal actions against parties who refuse to comply with arbitration awards, as well as other actions intentionally hindering the implementation of arbitration awards (Yahya, 2006).

The Urgency of Juridical Review of the Implementation of Foreign Arbitration Awards in Indonesia in the Perspective of Constitutional Court Decision Number 4/PUU-XXII/2024

The urgency of a juridical review on the implementation of foreign arbitration awards in Indonesia from the perspective of Constitutional Court Decision Number 4/PUU-XXII/2024 is crucial in addressing the challenges and opportunities related to Indonesia's legal system and its position in the international legal community. Article 59 paragraph (1) of Regulation Number 30 of 1999 concerning Assertion and Elective Question Goal is the main focus of this review. Before the Constitutional Court Decision, the requirement of District Court approval to enforce foreign arbitration awards created complexity and significant administrative barriers in the acknowledgment and authorization interaction of unfamiliar mediation grants. In this specific circumstance, the desperation of the juridical survey is to address the legitimate vulnerabilities and authoritative obstructions existing in the execution of unfamiliar discretion grants in Indonesia (Nugroho, 2017). Constitutional Court Decision Number 4/PUU-XXII/2024 provides legal clarity by affirming that District Court approval is not required to enforce foreign arbitration awards already recognized by the District Court.

Article 59 section (1) of Regulation Number 30 of 1999 concerning Intervention and Elective Debate Goal, prior to being corrected by Protected Court Choice Number 4/PUU-XXII/2024, had the following provision: "The implementation of foreign arbitration awards must obtain approval from the District Court before being enforced in Indonesia." With the amendment by the Constitutional Court Decision, this article was modified to provide legal clarity, with wording adjusted according to the Constitutional Court's decision.

With this decision, the urgency of judicial review becomes more prominent in the context of improving and perfecting Indonesia's legal framework related to international arbitration practices (Andriansyah, 2014). This is not only important to enhance legal certainty and judicial process efficiency domestically, but also to strengthen Indonesia's position in the international legal community. This urgency also encompasses aspects of protecting the rights of foreign investors and increasing their trust in the Indonesian legal system. By providing legal clarity and eliminating unnecessary administrative barriers, Indonesia can become a more attractive investment destination for foreign investors, which in turn can support economic growth and national development. Overall, the urgency of a juridical review on the implementation of foreign arbitration awards in Indonesia from the perspective of Constitutional Court Decision Number 4/PUU-XXII/2024 is crucial for strengthening the legal framework, enhancing legal certainty, and supporting Indonesia's economic growth in the era of globalization.

In making sense of the criticalness of authorizing the law with respect to the execution of unfamiliar assertion grants in Indonesia, it is essential to comprehend that the legitimate establishment overseeing this matter begins not just from Regulation Number 30 of 1999 concerning Mediation yet additionally from the Indonesian Punitive Code (KUHP). The arrangements in the Mediation Regulation give a reasonable legitimate structure to the acknowledgment and requirement strategies of discretion grants, while the KUHP lays out lawful ramifications for infringement of discretion grants. For instance, Article 49 of the Arbitration Law asserts that foreign arbitration awards are recognized and can be enforced as final court judgments. It provides a strong legal basis for upholding legal certainty and protecting the integrity of the arbitration process (Andriansyah, 2014). On the other hand, the Indonesian Penal Code (KUHP) provides relevant legal grounds for addressing violations of

arbitration awards, such as Article 233 which regulates criminal sanctions against those who refuse to comply with court decisions.

Article 59 passage (1) of Regulation Number 30 of 1999 concerning Mediation and Elective Question Goal, prior to being changed by Sacred Court Choice Number 4/PUU-XXII/2024, had the legitimate power as an arrangement overseeing the most common way of carrying out unfamiliar discretion grants in Indonesia. This article gave a lawful premise that expected endorsement from the Locale Court before the requirement of unfamiliar mediation grants in Indonesia. With the change by the Sacred Court Choice, this article actually holds legitimate power as a component of Regulation Number 30 of 1999 concerning Discretion and Elective Debate Goal (Widjaja & Adrian, 2008). In any case, the translation and application have been changed by the choice of the Protected Court, which gives lucidity that Locale Court endorsement isn't needed for the execution of an unfamiliar discretion grant that has been perceived by the Region Court (Andriansyah, 2014).

To adjust the existing legal arrangements regarding arbitration in addition to facing the era of trade and investment liberalization, the Indonesian government has issued Law No. 30 of 1999 concerning Discretion and Elective Debate Goal. The law controls the procedural interaction through public intervention and strategies for carrying out assertion grants, both national and international. However, on the one hand, the presence of Law no. 30 of 1999 does not explicitly stipulate its attitude towards several previously existing arbitration regulations, especially those contained in RV and Supreme Court Regulation no. 1 in 1990 (Widjaja & Adrian, 2008). Therefore, implementing regulations from Law No. 30 of 1999, especially the confirmation of the position of the previous arbitration rules. Likewise, considering the reluctance of foreign parties to resolve their disputes through the courts, it seems that the authority and enforcement of law in Indonesia is the main goal in developing national law. Efforts are still needed to further socialize Law No. 30 of 1999 to be effective in national and international trade life (Widjaja & Adrian, 2008).

CONCLUSION

The Constitutional Court Decision Number 4/PUU-XXII/2024 has significantly impacted Indonesia's international arbitration practices, eliminating the need for District Court approval for foreign arbitration awards. This change enhances the legal framework, providing clarity and certainty in the recognition and enforcement of foreign arbitration awards. This decision signals Indonesia's commitment to justice, legal certainty, and foreign investment protection. By removing administrative barriers, Indonesia can become a more attractive investment destination for foreign investors, supporting economic growth and national development. Investment in employee training, infrastructure improvement, and adequate resources will enhance dispute resolution through arbitration and enforcement of foreign arbitration awards.

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