

# Legal Enforcement for The Implementation of Foreign Arbitration Awards in Indonesia from The Perspective of Law No. 30 Years 1999

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**Abstract.** This research aimed examining the job of Regulation No. 30 of 1999 concerning Discretion and the impediments encountered in its implementation, this research endeavors to contribute towards refining the legal framework and augmenting the efficacy of dispute resolution mechanisms in Indonesia. Secondary data sources were utilized, and a qualitative descriptive approach was employed for data analysis. Conclusions were derived utilizing a deductive method. This investigation yields insights elucidating the imperativeness of law enforcement in the foreign arbitration awards in Indonesia. It is imperative to recognize that the legal underpinnings governing this realm emanate not solely from Law No. 30 of 1999 concerning Arbitration but also from the Criminal Code (KUHP). Provisions within the Arbitration Law furnish a lucid legal framework delineating the procedures for recognition and enforcement of arbitration awards, while the Criminal Code delineates the legal repercussions for breaches of arbitration awards. For instance, Article 49 of the Arbitration Law stipulates that foreign arbitration awards are accorded recognition and may be enforced akin to final and binding court judgments, thereby furnishing a robust legal foundation for upholding legal certainty and safeguarding the integrity of the arbitration process.

**Keywords:** Law Enforcement, Implementation of Foreign Arbitration Awards in Indonesia, Law No. 30 of 1999

## 1 Introduction

Alongside economic globalization, increasing cross-border investments, and Indonesia's significant role in the global market, there arises a need for a clear legal framework to resolve disputes arising from international business transactions. Regulation No. 30 of 1999 concerning Assertion gives the legitimate premise to the Indonesian government to take on the standards of the Unified Countries Show on the Acknowledgment and Requirement of Unfamiliar Arbitral Honors (New York Show 1958). Notwithstanding, the execution of this regulation and the acknowledgment of unfamiliar intervention grants still face challenges in practice. With the ongoing dynamics of the global business environment, dispute resolution through international arbitration has become an increasingly popular choice for parties involved in cross-border transactions.[1] Foreign arbitration awards are often regarded as a more efficient, swift, and impartial mechanism for resolving business disputes compared to traditional litigation pathways

in courts. However, despite the widely recognized importance of foreign arbitration, the implementation and enforcement of foreign arbitration awards in Indonesia still face several serious challenges. One of the main challenges is compliance with the rules and procedures stipulated in Law No. 30 of 1999 concerning Arbitration.

Notwithstanding the articles inside Regulation No. 30 of 1999 concerning Assertion, there are likewise a few significant supporting guidelines to be viewed as with regards to upholding unfamiliar discretion grants in Indonesia. A portion of these incorporate Unofficial law No. 34 of 2016 concerning Debate Goal through Discretion, which gives more itemized guidelines in regards to mediation systems, acknowledgment and authorization of assertion grants, as well as the power of discretion establishments in Indonesia.[2] High Court Guideline Number 1 of 2016 concerning Question Goal Strategies through the Indonesian Public Assertion Board (BANI) manages the debate goal systems through BANI, one of the most noticeable mediation organizations in Indonesia.

Unofficial law Number 24 of 1997 concerning the Enlistment and Execution of Unfamiliar Court Decisions, while not explicitly managing assertion, gives significant legitimate grounds to the acknowledgment and implementation of unfamiliar mediation grants in Indonesia. Unofficial law Number 53 of 2010 concerning the Methodology for Resolving Disputes in the Mining and Coal Sector Business regulates specific procedures for resolving disputes in the mineral and coal mining sector through arbitration. These regulations provide more detailed guidance on how arbitration dispute resolution is conducted in Indonesia, including the procedures to be followed and the obligations to be complied with by the parties involved in arbitration. Understanding and correctly applying these regulations are key to upholding the law and ensuring the fair and effective implementation of foreign arbitration awards in Indonesia.[3]

Based on Article 8 of Law No. of 2011, a passport or valid travel document serves as a travel document between countries, proof of identity, and proof of citizenship of the passport holder when outside the territory of their country. Subsequent permission, accompanied by a visa according to Article 1 number 18 of Law No. 6 of 2011 concerning Immigration, is a written permission granted by authorized officials at the representation of the Republic of Indonesia or other locations designated by the Republic of Indonesia or elsewhere. During such visits, starting from the date of entry permission granted in the territory of the Republic of Indonesia, foreign nationals are allowed to stay for a maximum of 60 (sixty) days.[4]

Regulation Number 6 of 2011 concerning Migration, movement is expected as the front watchman in keeping up with the maintaining of power, as the coordinator of checking matters in regards to the development of individuals entering and leaving the domain of Indonesia.[5] 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 the task is carried out. In the case of misuse of visit stay visas, full authority for supervision lies with the Minister of Law and Human Rights, who also delegates it 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 an arbitration body to resolve the dispute. This article provides a strong legal foundation for the use of arbitration in resolving business disputes in Indonesia, both domestically and internationally. Additionally, Article 49 of the same law 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 upheld and enforced in Indonesia.[6]

Deportation decisions are issued by authorized Immigration officials, namely the Head of the Immigration Office, and must be conveyed to the foreigner subjected to immigration actions no later than 7 (seven) days from the date of determination. During the waiting period for the deportation process, the foreigner is placed in Immigration detention rooms. Law Number 6 of 2011 Concerning Immigration Article 1 paragraph (34) defines immigration detention rooms as temporary shelters for foreigners subjected to Immigration administrative actions located in the Directorate General of Immigration and Immigration Offices, and Article 44 paragraph (1) stipulates that any foreigner in Indonesian territory may be placed in Immigration detention rooms if they are in Indonesian territory without valid residence permits or pending expulsion or deportation from Indonesian territory.[7] Immigration detention rooms imposed on foreigners do not have the status of state prisons (Rutan), but their management, including the care for their occupants, can be equated with state prisons. This explains that if it does not fall into the category of state prisons or other forms of detention, the consequence that will arise is the absence of detainee allowances received by the foreigner for their quarantine in the verdict.

Immigration officials can act as investigators to conduct investigations into immigration crimes, but not all immigration officials can be called investigators; only immigration officials who have received education at the Criminal Investigation Education Center of the Indonesian National Police in Megamendung can be called investigators. In this education, Immigration Law Enforcement Officers (PPNS Imigrasi) learn about the process of investigating immigration crimes. Pro justisia actions, namely handling an immigration crime through the judicial process, which is included in the Criminal Justice System. Pro justisia actions are given to foreigners who commit crimes or violations of immigration laws listed in Law Number 6 of 2011 Immigration, Government Regulation Number 31 of 2013 Immigration, conducted by investigating suspects and evidence related to immigration crimes committed, taking initial actions at the scene, quarantining foreigners, conducting searches, seizures, and examinations of places, objects, documents, letters related to immigration crimes, summoning witnesses and suspects, accompanied by the preparation of reports for each legal action taken.[4]

Recognized or not, the quality of human resource management in the public sector has attracted the attention of many governments worldwide today. Some of these concerns are based on the condition that the government, as an organization, is not conducive to long-term career prospects for high-quality professional managers. The government's ability to attract, retain, and develop its best talents is one of the determining factors for a country's competitiveness. It is done to address various challenges, both internal domestic challenges and external challenges on an international scale. The process of attracting, selecting, engaging, developing, and retaining competent public sector workers is crucial for enhancing performance, accountability, efficiency, and effectiveness. Moreover, in developing countries,

the public sector workforce can be a significant resource for economic, social, and political development.[8]

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 oversee the implementation of arbitration awards, take legal action against violations, and provide protection to parties complying with such decisions. Increasing transparency is also key to strengthening regulations on business dispute resolution through arbitration. The government can encourage the adoption of transparent practices in the arbitration process, including disclosing information about arbitration awards, arbitration costs, and the legal considerations underlying such decisions. This step will help build public trust in the arbitration dispute resolution system.[9]

In the context of law enforcement and the implementation of foreign arbitration awards in Indonesia, in addition to Law No. 30 of 1999 concerning Arbitration, it is also important to consider the provisions of the Criminal Code (Kitab Undang-Undang Hukum Pidana) related to the implementation of court decisions. For example, Article 233 of the Criminal Code states that anyone who does not comply with a final and binding court decision may be subject to criminal sanctions. The application of these provisions strengthens the legitimacy and enforcement of foreign arbitration awards in Indonesia. Additionally, provisions in the Criminal Code governing the execution of court decisions can also be applied in the context of implementing arbitration awards. For instance, Article 222 of the Criminal Code regulates the process of executing criminal sentences, while Article 211 governs the imposition of criminal sanctions for violations of court decisions. The application of these provisions provides a strong legal basis for enforcing foreign arbitration awards in Indonesia.[1]

## **2 Method**

This type of research is descriptive research. The approach used is a qualitative approach and a conceptual approach. The data source used is secondary data. Data analysis was carried out descriptively-qualitatively.[10] Conclusions are drawn using a deductive method, which involves drawing conclusions from the general to the specific, particularly related to the research topic, which is the Enforcement of Law in the Implementation of Foreign Arbitration Awards in Indonesia from the Perspective of Law No. 30 of 1999. Qualitative data analysis is conducted when the empirical data obtained consists of a collection of words rather than a series of numbers and cannot be organized into data categories. This data can be collected in various ways, such as through observation, interviews, document analysis, and recorded tapes.[11] Typically, qualitative data undergoes preprocessing before its integration into research, encompassing tasks such as transcribing interview outcomes, data reduction, analysis, data interpretation, and triangulation.

### **3 Result and Discussion**

#### **3.1 The Implications of Law Enforcement in the Implementation of Foreign Arbitration Awards in Indonesia from the Perspective of Law No. 30 of 1999**

The execution of unfamiliar mediation grants in Indonesia is a complicated space, requiring a significant comprehension of the legitimate system overseeing it. Regulation No. 30 of 1999 concerning Mediation serves as the primary legal foundation regulating arbitration practices in Indonesia. From the perspective of this law, the acknowledgment and implementation of unfamiliar assertion grants are immovably grounded, especially in Article 49, which specifies that unfamiliar discretion grants are perceived and can be upheld like last and restricting court choices.[4] Furthermore, in efforts to strengthen the enforcement of foreign arbitration awards, the Criminal Code (KUHP) also provides relevant legal grounds. Articles in the Criminal Code regulating criminal sanctions for violations of court decisions, such as Articles 233 and 211, can be applied analogously in the context of enforcing foreign arbitration awards. Thus, business actors who refuse to comply with foreign arbitration awards may be subject to criminal sanctions by existing legal provisions.

In strengthening the enforcement of foreign arbitration awards in Indonesia, it is necessary to consider various legal domains that bind, including articles in Law No. 30 of 1999 concerning Arbitration and provisions in the Criminal Code (KUHP). Articles in Law No. 30 of 1999 serve as the primary legal foundation regulating arbitration practices in Indonesia. For example, Article 3 regulates arbitration agreements, and Article 49 pertains to the recognition and enforcement of foreign arbitration awards. Both of these articles provide a strong legal framework for the recognition and enforcement of foreign arbitration awards in Indonesia. On the other hand, the Criminal Code also has significant relevance in the context of enforcing foreign arbitration awards. Articles in the Criminal Code regulating the implementation of court decisions, such as Articles 233 and 211, can serve as references for imposing criminal sanctions for violations of foreign arbitration awards. Therefore, business actors who refuse to comply with foreign arbitration awards may be subject to criminal sanctions by existing legal provisions.[12]

An investigation of Regulation No. 30 of 1999 concerning Discretion demonstrates that this regulation gives major areas of strength for a structure to the acknowledgment and implementation of unfamiliar mediation grants in Indonesia. The articles in this regulation lay out clear techniques for the acknowledgment and requirement of mediation grants, as well as engage impacted gatherings to document applications for the execution of discretion grants in court. Additionally, this law also stipulates provisions regarding the authority of arbitration bodies, arbitration procedures, and the confirmation and annulment of arbitration awards.[2] It creates legal certainty for the parties involved in arbitration and strengthens the integrity of the dispute resolution system through arbitration in Indonesia. However, the analysis also indicates that there are still several challenges in the implementation of this law. One of them is the ambiguity in the interpretation of the law and the differences of opinion among courts in Indonesia in handling cases involving foreign arbitration awards. Consistency in interpreting

this law is needed to ensure effective and fair law enforcement in the implementation of foreign arbitration awards.[13]

Law enforcement against foreign arbitration that violates legal provisions is an important aspect of ensuring compliance with legal processes and the integrity of dispute resolution systems. In this context, Law No. 30 of 1999 concerning Arbitration provides a strong legal basis for addressing violations of foreign arbitration awards. The provisions in this law empower legal authorities to take legal action against parties who do not comply with legally binding arbitration awards. Additionally, the Indonesian Criminal Code (KUHP) also provides relevant legal grounds for addressing violations in the context of dispute resolution through arbitration. Articles in the Criminal Code that regulate the imposition of criminal sanctions for violations of court decisions can be applied analogously to violations of foreign arbitration awards. It includes criminal actions against parties who refuse to comply with arbitration awards, as well as other actions that deliberately obstruct the implementation of arbitration awards.[14]

### **3.2 The Urgency of Law Enforcement in Implementing Foreign Arbitration Awards in Indonesia from the Perspective of Law No. 30 of 1999**

Law enforcement in implementing foreign arbitration awards in Indonesia holds significant urgency in enhancing legal certainty, strengthening dispute resolution systems, and improving the investment climate in the country, particularly from the perspective of Law No. 30 of 1999 concerning Arbitration. The law provides a crucial legal foundation for the recognition and enforcement of foreign arbitration awards in Indonesia, which are integral parts of the legal infrastructure supporting international trade and investment. The importance of law enforcement in implementing foreign arbitration awards is also reflected in the role of arbitration as an efficient and neutral alternative for resolving business disputes. By having a system capable of effectively enforcing foreign arbitration awards, Indonesia can increase investor confidence in its legal system, attract foreign investment, and promote sustainable economic growth.

However, in practice, there are still challenges in enforcing the law regarding the implementation of foreign arbitration awards in Indonesia. One of them is the ambiguity in the interpretation of laws and differences of opinion among Indonesian courts in handling cases involving foreign arbitration awards. Consistency in interpreting these laws is necessary to ensure effective and fair law enforcement. Additionally, the role of legal institutions and the government is also crucial in strengthening the legal infrastructure supporting dispute resolution through arbitration.[1] By enhancing the capacity of arbitration institutions, providing adequate facilities, and raising legal awareness among the public, Indonesia can create a conducive environment for resolving business disputes through arbitration.[15] By overcoming these challenges and strengthening the enforcement of foreign arbitration awards, Indonesia can enhance its position as an attractive investment destination, build confidence in its legal system, and open opportunities for sustainable economic growth. It will have a positive impact not only on the Indonesian economy but also on the stability and development of international trade as a whole.[16]

In making sense of the desperation of authorizing the law on the execution of unfamiliar assertion grants in Indonesia, it is important to comprehend that the legitimate structure overseeing this matter begins not just from Regulation No. 30 of 1999 concerning Assertion yet in addition from the Crook Code (KUHP). The arrangements in the Discretion Regulation give an unmistakable legitimate structure to the techniques of acknowledgment and requirement of mediation grants, while the KUHP lays out lawful ramifications for infringement of discretion grants. For example, Article 49 of the Intervention Regulation affirms that unfamiliar mediation grants are perceived and can be implemented as last and restricting court choices. It gives serious areas of strength for a premise to maintaining lawful sureness and safeguarding the uprightness of the mediation cycle.[17] On the other hand, the Criminal Code (KUHP) provides relevant legal grounds for addressing violations of arbitration awards, such as Article 233 which stipulates criminal sanctions for those who refuse to comply with court decisions.

However, in practice, challenges persist, including uncertainties in the interpretation of laws and differences of opinion among courts in Indonesia. This emphasizes the importance of consistency and clarity in law enforcement. By strengthening regulations and enhancing coordination among legal institutions, the government, and relevant parties, Indonesia can ensure effective law enforcement in the implementation of foreign arbitration awards. By overcoming these challenges and strengthening the legal infrastructure supporting dispute resolution through arbitration, Indonesia can enhance investor confidence, attract foreign investment, and promote sustainable economic growth. This will have significant positive impacts on overall economic stability and international trade growth.[17]

Strengthening law enforcement in the implementation of foreign arbitration awards in Indonesia also requires concrete steps to enhance existing regulations and legal infrastructure. Firstly, revising and improving the clarity of Law No. 30 of 1999 on Arbitration can help address uncertainties in legal interpretation and strengthen the legal basis for enforcement. These revisions may include refining arbitration procedures, clarifying the authority of arbitration bodies, and enhancing oversight mechanisms. Secondly, the development of more detailed practical guidelines on the recognition and enforcement of foreign arbitration awards can help strengthen law enforcement by providing clear guidance to legal practitioners, businesses, and other relevant parties. These guidelines may cover procedures for enforcing arbitration awards, mechanisms for enforcing decisions, and guidance on dispute resolution procedures.[18]

## **4 Conclusion**

1. The enforcement of foreign arbitration awards in Indonesia is of great urgency to support legal certainty, strengthen dispute resolution systems, and enhance the investment climate in the country. Through Law No. 30 of 1999 on Arbitration, Indonesia has established a crucial legal framework for the recognition and enforcement of foreign arbitration awards, which are integral elements of the legal infrastructure supporting international trade and investment. However, to ensure the

successful enforcement of the law, cooperation among legal institutions, the government, and other relevant parties is necessary.

2. The Indonesian Criminal Code (KUHP) also plays a significant role in establishing legal consequences for violations of arbitration awards. Provisions in the KUHP provide relevant legal grounds for addressing violations in the implementation of arbitration awards, thereby enhancing legal certainty and sending a strong signal to businesses about the importance of compliance with arbitration decisions.
3. Additionally, there is a need for the development of more detailed practical guidelines on the recognition and enforcement of foreign arbitration awards. These guidelines can provide clear guidance to legal practitioners, businesses, and other stakeholders on the procedures for executing arbitration awards, mechanisms for enforcing decisions, and effective dispute resolution methods. The provision of practical guidelines will help strengthen legal certainty, minimize uncertainties, and expedite the dispute resolution process.

## **5 Recommendations**

1. There is a need to develop more detailed practical guidelines on the recognition and enforcement of foreign arbitration awards. These guidelines can provide clear guidance to legal practitioners, businesses, and other relevant parties on the procedures for executing arbitration awards, mechanisms for enforcing decisions, and effective dispute resolution methods. The provision of practical guidelines will help strengthen legal certainty, minimize uncertainties, and expedite the dispute resolution process.
2. The capacity of arbitration institutions and related legal bodies needs to be enhanced. Investment in employee training, infrastructure improvement, and provision of adequate resources will enhance the effectiveness of dispute resolution through arbitration and the enforcement of foreign arbitration awards. By strengthening the capacity of these institutions, Indonesia can ensure that the business dispute resolution system through arbitration runs smoothly, fairly, and efficiently, thereby creating a conducive environment for sustainable economic growth.
3. Steps need to be taken to update and refine Law No. 30 of 1999 on Arbitration. The revision of this law can include further clarification regarding arbitration procedures, the authority of arbitration bodies, and procedures for the recognition and enforcement of foreign arbitration awards. This step will help address ambiguities in legal interpretation and enhance consistency and legal certainty in business dispute resolution.

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