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A Step Toward a New International Arbitration Hub or Merely a Procedural Reform? the Implications of Supreme Court Regulation No. 3 of 2023 on Arbitration in Indonesia

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Abstract
As business transactions become increasingly complex in the era of globalization, the need for effective, efficient, and responsive dispute resolution mechanisms has become more urgent. Arbitration, as a non-litigation alternative, offers key advantages such as procedural flexibility, confidentiality, and greater efficiency in time and cost compared to conventional litigation. In Indonesia, arbitration is primarily governed by Law Number 30 of 1999; however, the rapid evolution of global arbitration practices highlights the necessity for more adaptive regulatory reforms. The issuance of Supreme Court Regulation Number 3 of 2023 (PERMA 3/2023) represents a progressive effort to strengthen the procedural framework of arbitration, particularly in relation to arbitrator appointment, default mechanisms, enforcement and annulment of awards, and the digitalization of judicial administration. This study aims to analyze the contribution of PERMA 3/2023 in improving the effectiveness of arbitration in Indonesia and identify the normative and practical limitations that are still faced. The method used is a normative juridical approach with an analysis of laws and regulations and arbitration practices. The results of the study show that PERMA 3/2023 has succeeded in increasing procedural certainty and efficiency in the interaction between arbitration and the judiciary. However, there are still a number of problems, including inconsistencies in the regime for the recognition of international arbitral awards, ambiguity in the application of arbitrator immunity, and limitations in the arrangement of interlocutory awards. Therefore, further reforms are needed at the legislative level to realize a competitive arbitration system that is in line with international standards.

INTRODUCTION

Along with the continued development of globalization and market liberalization, business activities on both a domestic and international scale have always experienced a very significant increase (Sugiarto & Huda, 2022). However, with the intensification of these business activities, it also opens up space for the potential for disputes. Business activities are a series of efforts carried out continuously by business entities or individuals in an effort to provide goods or services to obtain profits (Simatupang, 2007). In practice, business activities are greatly influenced by the complexity of transactions, where increasingly complex business interactions can often involve various parties with intersecting or even conflicting interests (Akpan et al., 2023; Liu et al., 2024). These interest wedges can generally arise due to differences in interpretations of the provisions in the contract, such as there is an imbalance of rights and obligations, or the dynamics of competitive commercial relationships. These differences of opinion, coupled with the volume of business transactions that occur in modern practices, are the main factors and increase the potential for business disputes (Purwaningsih, 2010).

Indonesia as a country that since the beginning of its independence has asserted itself as a state of law or *rechtsstaat* (Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 1 ayat (3)), sees the law as having a function as an instrument of controlling power as well as a means to realize justice, certainty, and usefulness in community life, this is generally known as the *perspective of the rule of law* (Sugiarto & Huda, 2022). If it is associated with this discussion, then in this case the law not only regulates aspects of social and political life, but also plays a central role in economic activities, especially in the fields of business and trade. From an economic perspective, law has an integral role, especially in the event of a dispute because the period of time needed to resolve a dispute can be very influential and have a significant impact, including a decrease in productivity, an increase in production costs, and a disruption in the stability of business relations. Therefore, the need for effective, efficient, and responsive dispute resolution mechanisms is becoming increasingly urgent in the modern legal system.

The Indonesian legal system has normatively regulated the choice of dispute resolution, namely through the judiciary or litigation channels and outside the courts or alternative channels. In conventional practice, dispute resolution through litigation is still the top choice due to regulatory readiness, infrastructure, and knowledge in general. However, dispute resolution through this litigation channel is often seen as less than ideal in the business context because the process tends to be formalistic, time-consuming, high-cost, and produces a win-lose solution (Margono, 2015). The impact of this process often worsens business relations between the parties and causes further disputes (Winarta, 2012).

To respond to these limitations, alternative dispute resolution outside the courts that is more flexible and adaptive to the needs of the business world is beginning to develop. Based on the basic framework of freedom of contract as stipulated in Article 1338 of the Civil Code (Kitab Undang-Undang Hukum Perdata, Pasal 1338), the parties are given the freedom to determine the dispute resolution mechanism to be used in their contractual relationship, including choice of law, choice of jurisdiction, and choice of domicile (Fuady, 2007). One of the mechanisms that is increasingly chosen by business actors in the development of global practices is arbitration. Arbitration is seen as a dispute resolution forum that can provide various advantages, including faster processes, relatively more controlled costs, procedural flexibility, and confidentiality guarantee that are important in safeguarding the business interests of the parties. In addition, arbitration also offers a more win-win-win-oriented approach to dispute resolution, thus allowing for long-term business relationships (Widjaya & Yani, 2010).

If you look at history, the existence of dispute resolution through arbitration mechanisms or the like in Indonesia is not a new phenomenon. Since the colonial period of the Dutch East Indies, the provisions regarding the settlement of disputes through "arbitrators" have been accommodated in Article 377 of the *Het Herziene Indonesch Reglement* (HIR), Article 705 of the *Rechtsreglement Buitengewesten* (RBg), and the Third Book of the *Reglement op de Rechtsvordering* (Rv) (Astiti, 2018). Through these provisions, the colonial government had opened up space for the settlement of disputes outside the courts through a mechanism known at that time as "refereeing" (Jalaludin, 2025). This shows that the concept of arbitration has long historical roots in the Indonesian legal system.

The development of arbitration practice in Indonesia then experienced an important momentum with the establishment of the Indonesian National Arbitration Board ("BANI") in 1977 by the Chamber of Commerce and Industry ("KADIN"). The presence of BANI marks the institutionalization of arbitration as a more structured forum for resolving business disputes. However, until the end of the 20th century, arbitration arrangements in Indonesia were still heavily dependent on colonial heritage provisions that were considered no longer in accordance with the development of modern business practices. Therefore, The Indonesian government

then established Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution as a more comprehensive national legal framework (Undang-Undang Nomor 30 Tahun 1999, bagian Penjelasan Umum). The enactment of this law is an important milestone in the development of arbitration in Indonesia, as well as marking a paradigm shift from litigation to non-litigation dispute resolution.

Since the enactment of the Arbitration Law, various laws and regulations in the business sector have begun to accommodate arbitration as a dispute resolution mechanism. This is reflected in a number of laws, including the Law on Trade Secrets, Industrial Design, Investment, Islamic Banking, Trade, Copyright, Guarantee, and Patents. From a normative perspective, Indonesia already has a relatively adequate legal substance in supporting the practice of arbitration.

On the other hand, the development of the legal structure of arbitration has also shown significant progress. In addition to BANI, various sectoral arbitration institutions have been established, such as the National Sharia Arbitration Board (BASYARNAS), the Indonesian Capital Market Arbitration Board (BAPMI), as well as dispute resolution institutions in the construction, banking, and guarantee sectors. The existence of these institutions reflects the diversification of arbitration forums that are increasingly responsive to the specific needs of the business sector.

In this regard, the presence of these dispute resolution institutions functions not only to resolve disputes that have arisen, but also to provide a binding opinion on a certain legal relationship before the dispute occurs based on the provisions of Article 52 of the Arbitration Law (Undang-Undang Nomor 30 Tahun 1999, Pasal 52). This role shows that arbitration is not only reactive, but also preventive in maintaining the stability of business relationships.

Furthermore, the development of arbitration in Indonesia is also supported by a change in legal culture among business actors. In recent decades, there has been an increasing trend to include arbitration clauses in business contracts, both by private companies, state-owned enterprises, and small and medium-sized enterprises. This phenomenon indicates a shift in business actors' preferences from litigation to arbitration as a more efficient and adaptive dispute resolution forum.

In addition to domestic factors, Indonesia's ambition to increase its role in the international legal arena has also encouraged the strengthening of arbitration. Indonesia's participation in various international forums, including as a party to mechanisms such as the Permanent Court of Arbitration (PCA), reflects efforts to expand access to international dispute resolution and strengthen Indonesia's position in the formation of global legal norms (Fachri, 2019). In this context, the development of national arbitration not only has a domestic dimension, but also is strategic in increasing Indonesia's competitiveness at the regional and global levels.

However, during these various developments, the effectiveness of arbitration in Indonesia still faces several fundamental challenges. One of the main problems lies in the condition of the Arbitration Law, which has never been changed or adjusted since it was first enacted more than two decades ago (Fachri, 2020). In fact, the practice of global arbitration has undergone significant developments, both in terms of procedures, technology, and international standards. The lagging behind this regulation has the potential to hamper Indonesia's arbitration competitiveness amid increasingly fierce global competition.

In addition, problems also arise in judicial practice, especially related to the cancellation and implementation of arbitral awards. Judicial involvement that is not always consistent in applying the principle of non-intervention often creates legal uncertainty. In some cases, an application for annulment of an arbitral award is used as a means to prolong a dispute that should have been finally resolved. This condition ultimately has an impact on the decline in business actors' confidence in the effectiveness of arbitration in Indonesia.

In an effort to answer these various problems, the Supreme Court issued Supreme Court Regulation Number 3 of 2023 concerning Procedures for the Appointment of Arbitrators by the Court of Default Rights, Examination of Applications for Implementation and Cancellation of Arbitral Awards ("PERMA 3/2023") (Peraturan Mahkamah Agung Nomor 3 Tahun 2023, BN No. 827 Tahun 2023). This regulation regulates in more detail the procedure for the appointment of arbitrators by the court, the right to default, the examination of applications for implementation, and the cancellation of the arbitration award. In general, this PERMA provides clarification on various provisions that have not been clearly regulated in the Arbitration Law, including related to the limitations of legal remedies, the period of examination, and other administrative procedures.

The presence of PERMA 3/2023 should be appreciated as a progressive step in increasing procedural certainty in the national arbitration system. However, the more fundamental question is whether this regulation is sufficient to address the structural problems that have hindered the effectiveness of arbitration in Indonesia. In other words, is PERMA 3/2023 a strategic step towards Indonesia as an arbitration hub in the Asian or international region, or is it just limited to procedural reforms that have not touched the root of the problem?

Based on this background, this study will specifically analyze three main things, namely: first, the extent to which PERMA 3/2023 clarifies and complements the provisions in the Arbitration Law; second, what are the main limitations that are still faced in the practice of arbitration in Indonesia; and third, how Indonesia can learn from arbitration practices in other countries in order to encourage the realization of Indonesia as an arbitration hub in the Asian region. The benefits of this research are both theoretical and practical. Theoretically, this study contributes to the development of legal scholarship, particularly in arbitration law and alternative dispute resolution, by providing a critical analysis of recent regulatory reforms in Indonesia. Practically, the findings are expected to serve as a reference for policymakers in improving arbitration regulations, for legal practitioners in understanding procedural developments, and for business actors in making informed decisions regarding dispute resolution mechanisms. Furthermore, this research is expected to support the strengthening of Indonesia’s arbitration system to become more adaptive, credible, and competitive at the regional and international levels.

METHODS

This study used a normative juridical method with a descriptive-analytical approach, focusing on the examination of legal norms under Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution and Supreme Court Regulation No. 3 of 2023. The research applied statutory, conceptual, and comparative approaches to analyze normative consistency, identify legal gaps, and assess recent developments in arbitration practice.

The legal materials consisted of primary, secondary, and tertiary sources, which were collected through library research. Primary sources included relevant laws and regulations, while secondary sources comprised legal literature, journal articles, and scholarly opinions. The analysis was conducted qualitatively using a deductive method, drawing conclusions from general legal principles to more specific issues, in order to evaluate the effectiveness of PERMA No. 3 of 2023 in strengthening the procedural framework of arbitration in Indonesia.

RESULTS AND DISCUSSION

Reconfiguration of the Arbitration Procedural Framework in Indonesia After the Enactment of Perma No. 3 of 2023

The legal system in Indonesia recognizes a regulatory hierarchy system as regulated based on Article 7 of Law No. 12 of 2011 concerning the Establishment of Laws and Regulations, as amended by Law No. 15 of 201992, the last amended by Law No. 13 of 202293 (Undang-Undang Nomor 13 Tahun 2022). The order of the hierarchy of regulations, when ordered starting from the highest laws and regulations, is as follows (Undang-Undang Nomor 13 Tahun 2022, Pasal 7):

a. The Constitution of the Republic of Indonesia in 1945;
b. Decree of the People's Consultative Assembly;
c. Government Laws/Regulations in Lieu of Laws;
d. Government Regulations;
e. Presidential Regulation;
f. Provincial Regulations; and
g. Regency/City Regional Regulations.

Based on the hierarchy of laws and regulations above, Supreme Court Regulations are not directly in that order, but the Law on the Establishment of Laws and Regulations regulates Article 8 which basically explains that Supreme Court Regulations are recognized for their existence and have binding legal force as long as their existence is recognized and ordered by higher laws and regulations or formed based on authority (Undang-Undang Nomor 13 Tahun 2022, Pasal 8). Furthermore, Article 79 of Law No. 12 of 1965 concerning Courts within the General Judiciary and the Supreme Court, as last amended by Law No. 3 of 2009 concerning the Second Amendment to Law No. 14 of 1985 concerning the Supreme Court basically stipulates that the Supreme Court has the authority to make a Supreme Court regulation to further regulate matters that have not been sufficiently regulated for the smooth running of the Supreme Court administration of justice (Undang-Undang Nomor 3 Tahun 2009, Pasal 79).

In connection with this, the legal system of PERMA 3/2023 is not drafted to change the norms and provisions that have been regulated in the Arbitration Law, but basically functions as an implementing regulation that aims to fill technical gaps in judicial practice, especially in procedural aspects that have not previously been regulated in detail. In a conceptual framework, PERMA 3/2023 can be understood as a procedural standardization instrument that governs how courts interact with the arbitration process. Therefore, if examined further, PERMA 3/2023 does not touch the substantive dimension of arbitration law, such as the reason for cancellation or the basic principles of arbitration, but focuses on administrative and procedural procedures in the exercise of court authority.

Although the implementation of PERMA 3/2023 does not change the basic regulations regarding Arbitration in Indonesia, its presence is still welcome in improving the effectiveness of arbitration practices in Indonesia. PERMA 3/2023 can be positioned as an effort to improve the governance of the relationship between arbitration and the judiciary, which has not been explained through the Arbitration Law, not as a structural reform of the arbitration system itself (Undang-Undang Nomor 30 Tahun 1999, bagian Menimbang huruf d). This is important to understand, because the effectiveness of PERMA 3/2023 will ultimately depend heavily on implementation by the courts, not on fundamental changes in legal norms.

Expansion of Judicial Competence in Sharia Arbitration

The Supreme Court, through Articles 2 and 3 of PERMA 3/2023, expands the scope of the Judiciary's authority in handling applications related to sharia arbitration, including, among others, applications for the implementation of sharia arbitration awards and applications for the cancellation of sharia arbitration awards (Peraturan Mahkamah Agung Nomor 3 Tahun 2023,

Pasal 2 dan 3). This is an additional arrangement to the Arbitration Law, which only regulates the court's authority in handling arbitration cases is still limited to the District Court (Undang-Undang Nomor 30 Tahun 1999, Pasal 59 dan 72).

The expansion of the scope of judicial authority, in this case specifically for sharia arbitration, is a response to the regulatory vacuum for sharia-based arbitration, which in practice has grown in line with the increase in sharia economic activity in Indonesia (Mahkamah Agung Republik Indonesia, 2022).

Along with the presence of other arbitration institutions such as the National Sharia Arbitration Board ("Basyarnas"), the arrangement has important implications for the development of arbitration in Indonesia. The expansion of the scope of authority shows that there are efforts to integrate the arbitration mechanism with the sharia-based judicial system, thereby providing a more suitable forum for disputes that have religious characteristics.

Standardization of Arbitrator Appointment and Default Rights Mechanism

One of the uncertainties that arise in the practice of arbitration under the Arbitration Act is the absence of clear arrangements regarding the mechanism for the appointment of arbitrators in situations where the parties fail to reach an agreement. The uncertainty arises based on the provisions in Article 13 of the Arbitrator Law, in the event that an agreement is not reached regarding the selection of arbitrators, it will be appointed by the Chief Justice of the District Court or the arbitration panel, without any further information about the procedures and deadlines needed in the process (Undang-Undang Nomor 30 Tahun 1999, Pasal 13). This normative vacuum in practice often creates obstacles in the formation of arbitration panels, which ultimately has an impact on delaying the dispute resolution process and reducing the efficiency of arbitration as an alternative dispute resolution forum.

This is further regulated in Article 4 of PERMA 3/2023 by giving the parties the right to apply to the Chief Justice to appoint an arbitrator or arbitral tribunal, which is required to be heard first by the Chief Justice, including considering the reasons for the disagreement and the proposed name of the arbitrator submitted by each party (Peraturan Mahkamah Agung Nomor 3 Tahun 2023, Pasal 4 ayat (1) dan (2)). For such applications, the Chief Justice shall determine the appointment of an arbitrator or arbitration panel within a maximum period of 14 (fourteen) days from the date the application is submitted (Peraturan Mahkamah Agung Nomor 3 Tahun 2023, Pasal 4 ayat (3) dan (4)).

This provision is a form of procedural intervention that is restrictive, which aims to prevent unnecessary delays in the early stages of the arbitration proceedings. With a firm deadline, the establishment of a tribunal is no longer entirely dependent on the agreement of the parties, but can be facilitated by the courts within a measurable framework.

In addition to regulating the mechanism for appointing arbitrators, PERMA 3/2023 also provides more detailed arrangements regarding the mechanism for the right to default against arbitrators. This right of objection can be filed by the parties if there are objective reasons and supported by authentic evidence that raises doubts about the independence and impartiality of the arbitrator. Limitedly, PERMA 3/2023 identifies several conditions that can be the basis for filing a right of default, namely if the arbitrator has a family relationship, financial relationship, or employment relationship with one of the parties or his or her proxies (Peraturan Mahkamah Agung Nomor 3 Tahun 2023, Pasal 4 ayat (5)).

In the event that the right of default is submitted, the Chief Justice will conduct an examination by listening to the information from the applicant and the response from the party who rejected the application. This examination process is also strictly limited, where the Chief Justice is obliged to provide a determination on the application for the right of default within a maximum period of 14 (fourteen) days from the date of receipt of the application (Peraturan Mahkamah Agung Nomor 3 Tahun 2023, Pasal 4 ayat (7)).

Further, in the event that the application for a right of default is not approved by the other party and the arbitrator concerned is not willing to resign voluntarily, the parties are given the right to apply to the Chief Justice. In this mechanism, the Chief Justice will again listen to the parties before making a decision. The decision is final and cannot be appealed, thus providing strong legal certainty in determining the composition of the arbitration tribunal.

This procedural arrangement has significant implications in the practice of arbitration in Indonesia. From the perspective of independence, the existence of a clear and measurable mechanism of default strengthens the principle of arbitral impartiality as the main foundation of the legitimacy of the arbitral award. Meanwhile, from an efficiency perspective, the existence of a strict time limit at each stage, both in the appointment of arbitrators and in the examination of defaults, contributes to the acceleration of the establishment of the tribunal and the smooth running of the arbitration process as a whole.

Reform of Registration Procedures and Implementation of Arbitration Awards

In an effort to keep up with the times and in line with the practice of using technology that is getting closer in dispute resolution practices, PERMA 3/2023 introduces a significant innovation, namely digitizing the process of registering arbitration awards through the Court Information System. This provision applies to both national and international arbitral awards, and reflects efforts to modernize judicial administration in line with technological developments (Undang-Undang Nomor 30 Tahun 1999, Pasal 6 ayat (3) dan Pasal 7 ayat (5)).

In addition to the digitalization aspect, Articles 6 and 7 of PERMA 3/2023 also provide more detailed clarity regarding the procedure for implementing arbitration awards. This arrangement includes the procedure for submitting an application for enforcement, the time limit for examination by the court, and the conditions that must be met in order for an arbitral award to be recognized and enforced. One of the important aspects of this arrangement is the affirmation of the concept of "public order".

PERMA 3/2023 regulates the definition of "Public Order" as everything that is the basic joints necessary for the running of the legal system, economic system and socio-cultural system of the Indonesian society and nation, thus providing more explicit limits on this concept (Peraturan Mahkamah Agung Nomor 3 Tahun 2023, Pasal 1 angka 9). So far, public order has often been used as a basis for rejecting the implementation of an arbitral award, but without a clear definition in the Arbitration Law, so that there is not a little that can cause potential abuse in practice.

Restructuring of the Arbitration Award Cancellation Mechanism

The regulation of annulment of arbitral awards has actually been regulated in the Arbitration Law through Articles 70 to 72 of the Arbitration Law. However, the provisions in the Arbitration Law in practice create uncertainty because many aspects are not regulated in detail, such as the timing, agenda, and mechanism of the annulment request (Undang-Undang Nomor 30 Tahun 1999, Pasal 70-72). In this case, PERMA 3/2023 further affirms the deadline for submitting a cancellation application, where an application submitted after the deadline will be declared ineligible for the formal requirements (Peraturan Mahkamah Agung Nomor 3 Tahun 2023, Pasal 24 ayat (3)).

Furthermore, PERMA 3/2023 also regulates in more detail the mechanism for examining cases, including evidentiary procedures and limitations on opportunities for parties to submit evidence (Peraturan Mahkamah Agung Nomor 3 Tahun 2023, Pasal 24-28). Another important aspect is the affirmation of the legal subject in the application for annulment. PERMA explicitly states that neither the arbitrator nor the arbitral institution is a party to the motion for annulment (Peraturan Mahkamah Agung Nomor 3 Tahun 2023, Pasal 24 ayat (6)). This provision is important to avoid practice errors that have often occurred, where the arbitration institution is also sued in the cancellation process.

In terms of legal remedies, PERMA 3/2023 distinguishes between a decision granting and rejecting a cancellation application. A decision granting cancellation can still be filed as a legal remedy, while a decision rejecting cancellation is final. This arrangement reflects an effort to maintain a balance between the parties' right to justice and the principle of finality in arbitration.

Strengthening the Bail-Confiscation Mechanism in Arbitration

Finally, one of the significant reforms in PERMA 3/2023 is the regulation regarding the implementation of security confiscation ordered by the arbitrator. Provisions related to confiscation are one aspect in which there is no clear mechanism in the Arbitration Law on how interim awards from arbitrators, especially related to confiscation, can be implemented in the national legal system.

The presence of PERMA 3/2023, through Article 29, stipulates that in the event that the arbitrator or arbitration panel issues a determination of security confiscation, the determination must be registered with the court (Peraturan Mahkamah Agung Nomor 3 Tahun 2023, Pasal 29). Furthermore, the implementation of confiscation is carried out through the mechanism of civil procedure law that applies in court. This arrangement has significant practical implications, namely to strengthen the effectiveness of arbitral awards, especially in the pre-execution stage. Then, this mechanism gives coercive power to the orders of the arbitral tribunal, which previously tended to be limited. Finally, this arrangement has the potential to increase business actors' confidence in arbitration as a dispute resolution forum that not only produces awards, but is also able to guarantee its implementation.

Uncertainty That Still Limits Arbitration Practice in Indonesia

Inconsistencies in the application of the provisions regarding Arbitrator Immunity

One of the important strengthenings in PERMA 3/2023 is the affirmation of the immunity of arbitrators and arbitration institutions. Article 24 paragraph (6) of PERMA 3/2023 explicitly states that in the application for annulment of the arbitration award, the arbitrator and/or the arbitration institution are not parties (Peraturan Mahkamah Agung Nomor 3 Tahun 2023, Pasal 24 ayat (6)). This provision is a further regulation of the principle of arbitrator immunity previously regulated in Article 21 of the Arbitration Law. Prior to the existence of PERMA 3/2023, there was a tendency for the parties to irrelevantly attract the arbitration institution as a party to the cancellation application. This can be seen, for example, in the case of PT Pertamina EP v. The consortium of PT Inti Karya Persada Tehnik and PT Adhi Karya (Persero) and PT Bank Mandiri Tbk. (2016), as well as in the international dispute PT Media Nusantara Citra Tbk. v. Ang Choon Beng et al. (2018) which also involved the Singapore International Arbitration Centre (Pangaribuan, 2025).

Arbitrator immunity is a fundamental principle to maintain the independence and impartiality of the arbitration process, so normatively, this arrangement should be appreciated because it is in line with international practice. However, in practice, this provision still leaves ambiguity. Prior to the existence of PERMA 3/2023, there was a tendency for the parties to irrelevantly attract the arbitration institution as a party to the cancellation application. This can be seen, for example, in the case of PT Pertamina EP v. The consortium of PT Inti Karya Persada Tehnik and PT Adhi Karya (Persero) and PT Bank Mandiri Tbk. (2016), as well as in the international dispute PT Media Nusantara Citra Tbk. v. Ang Choon Beng et al. (2018) which also involved the Singapore International Arbitration Centre (Fachri,2017).

In this regard, although the provisions in PERMA 3/2023 through Article 24 paragraph (6) have sought to improve practices and clarify ambiguities that often occur, this provision does not comprehensively regulate exceptions to arbitrator immunity, especially in the context of a waiver application. The absence of explicit regulations regarding the limitation of immunity in the context of the right to default as stipulated in Article 5 of PERMA 3/2023 has the potential to cause legal uncertainty. Despite the normative strengthening, the

implementation of the principle of arbitrator immunity still requires further clarification through the implementation of arbitration cases in the future and to see if there are still inconsistencies in practice.

Conflicting International Arbitration Award registration arrangements

Another problem that has not been resolved by PERMA 3/2023 is related to the registration and recognition of international arbitration awards. In international arbitration practice, there is a known difference between the seat of arbitration (legal domicile) and venue (venue of the hearing), which indicates that an arbitration can involve multiple jurisdictions at once. Unfortunately, PERMA 3/2023 cannot use the momentum of this reform to resolve the normative inconsistencies that have long existed in the Arbitration Law that arise due to the difference between Article 66 letter a and Article 67 paragraph (2) letter c.

Article 66 letter a requires that the recognition and enforcement of an international arbitral award depends on whether the country where the award is made (seat) is bound by an international treaty. Meanwhile, Article 67 paragraph (2) letter c actually refers to the applicant's country as a party that must be bound by the agreement. This difference creates significant ambiguity in practice.

This problem was clearly used in the case of PT Indiratex Spindo v. Head of the Indonesian Representative in London (2014). In the present case, although the United Kingdom as the place where the arbitral award was rendered was a party to the 1958 New York Convention, the applicant was from a jurisdiction that was not a party to the convention. The inconsistency of these norms then became the basis of further disputes.

In an effort to provide an answer to this uncertainty, however, PERMA 3/2023 through Article 7 paragraph (3), does not provide clarification on the conflict of norms, but only repeats existing provisions. As a result, legal uncertainty continues and has the potential to be used by parties who do not have good faith to avoid the implementation of the arbitration award.

Limitations of Arrangements on *Interim Measures*

The Arbitration Act provides ample space for arbitral tribunals to issue various types of interlocutory awards, not limited to the seizure of bail. However, PERMA 3/2023 only specifically regulates the confiscation of collateral in Article 29. This approach seems narrow when compared to international practice, as accommodated in the UNCITRAL Model Law on International Commercial Arbitration, which recognizes various forms of interim measures, including:

1. an order to maintain the status quo (e.g. anti-suit injunction)
2. Protection of evidence
3. Measures to prevent irreparable losses

These limitations are becoming increasingly relevant in the context of modern arbitration that increasingly relies on document-based arbitration, where the protection of evidence is crucial. In addition, PERMA 3/2023 also does not provide clarity on whether interlocutory judgments issued by international arbitration tribunals can be registered and enforced in Indonesia. The absence of this arrangement has the potential to hinder the effectiveness of cross-border arbitration.

Another problem is that the enforcement of security confiscation remains subject to the national civil procedure law, which opens up the possibility of resistance or appeal. This is in contrast to the practice in other jurisdictions, such as in the United Kingdom Arbitration Act 1996, which requires special leave of the court before an interlocutory judgment can be appealed. As a result, the effectiveness of interlocutory awards in arbitration in Indonesia still has the potential to be reduced by a multi-layered litigation mechanism.

Critical Evaluation of the Implementation of PERMA 3/2023

Overall, the presence and enactment of PERMA 3/2023 is a long-awaited progressive step in the Indonesian arbitration system. This regulation succeeds in providing clarity on various procedural aspects that were previously not regulated in detail, as well as strengthening the position of arbitration as an effective dispute resolution forum.

However, the above analysis shows that the reforms carried out are still partial and have not touched on more fundamental structural problems. Ambiguity in the application of arbitrator immunity, inconsistencies in the regime for recognition of international arbitral awards, and limitations in the arrangement of interlocutory awards indicate that PERMA 3/2023 has not been able to fully eliminate uncertainty in arbitration practice.

PERMA 3/2023 is more appropriately seen as the first step in procedural reform, which needs to be followed by regulatory updates at the legislative level as well as the strengthening of consistent and pro-arbitration judicial practices. Without these follow-up steps, Indonesia's potential to develop into an arbitration-friendly jurisdiction, let alone as an arbitration hub in the Asian region, will still face significant challenges.

Fundamentally, the problem of arbitration practice in Indonesia still lies in the regulations that have not been amended until now when the practice of arbitration in the world has developed so rapidly from time to time, that it makes the current Arbitration Law lagging behind the development of arbitration law (Fachri, 2017).

CONCLUSION

Supreme Court Regulation (PERMA) No. 3 of 2023 marks a meaningful advancement in Indonesia’s arbitration framework by standardizing procedures, addressing technical gaps in Law No. 30 of 1999, and introducing modernization through digital systems and improved enforcement mechanisms, thereby enhancing efficiency and legal certainty in court–arbitration interactions. However, its impact remains limited by unresolved structural issues, including ambiguity around arbitrator immunity, inconsistencies in recognizing and enforcing international arbitral awards, and insufficient regulation of interim measures, all of which continue to create legal uncertainty and potential misuse. While PERMA 3/2023 provides a promising foundation for Indonesia’s ambition to become a regional arbitration hub, achieving this goal requires deeper, more comprehensive reforms—particularly revising the primary arbitration law, harmonizing norms with international standards, and strengthening institutional and judicial support. Future research should focus on comparative analyses with leading arbitration jurisdictions to identify best practices for aligning Indonesia’s legal framework with global standards, especially in areas such as arbitrator protection, interim relief, and cross-border award enforcement.

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