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Legal Protection And Certainty Over The Implementation Of Emergency Interim Relief In The Arbitration Dispute Resolution Process In Indonesia

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Abstract: This study explores the urgency and legal framework of Emergency Interim Relief (EIR) in Indonesian arbitration law, emphasizing its role in safeguarding parties' rights and ensuring legal certainty in urgent disputes. EIR, as a temporary measure issued before a full arbitral tribunal is constituted, is crucial for preventing irreparable harm such as asset dissipation or evidence destruction. Although Law No. 30 of 1999 grants tribunals the authority to issue interim measures, its lack of explicit enforcement mechanisms historically limited their effectiveness. The issuance of Supreme Court Regulation No. 3 of 2023 (PERMA 3/2023) marks a significant development by providing procedural clarity, mandating court registration of interim orders, and introducing fixed timelines for enforcement, including for foreign awards. These reforms align Indonesian arbitration practice more closely with international standards and enhance its attractiveness as a dispute resolution hub. However, limitations remain, notably the narrow scope of PERMA 3/2023, which primarily addresses security seizures, and uncertainties regarding the enforceability of emergency awards under institutional rules such as the 2025 BANI Rules.

Keywords: Emergency Interim Relief, Arbitration Law, Legal Certainty

INTRODUCTION

In the realm of dispute resolution, arbitration has emerged as one of the most preferred mechanisms for resolving commercial disputes due to its flexibility, confidentiality, neutrality, and the ability to appoint arbitrators with specific expertise. One crucial feature that has gained increasing attention in modern arbitration practice is the provision of Emergency Interim Relief (EIR), a temporary remedy aimed at preserving the status quo or preventing irreparable harm before a final arbitral award is issued. EIR is particularly significant in cases where immediate action is required to prevent the dissipation of assets, destruction of evidence, breach of contractual obligations, or other acts that could render a subsequent arbitral award meaningless or unenforceable. In jurisdictions with well-developed arbitration laws, such as Singapore, Hong Kong, and the United Kingdom, EIR has been firmly embedded within legislative frameworks and institutional arbitration rules, ensuring both the availability and enforceability

of such measures. In contrast, Indonesia's arbitration regime, primarily governed by Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, has historically provided limited and somewhat ambiguous guidance on the granting and enforcement of interim measures, resulting in legal uncertainty and practical challenges for parties seeking urgent protection. While Article 32 of Law No. 30 of 1999 recognizes the authority of an arbitral tribunal to issue interim measures, the law does not elaborate on procedural mechanisms, enforcement processes, or the specific role of state courts in supporting these orders. This legislative gap has, in practice, created significant obstacles for parties in urgent situations, as interim measures ordered by arbitral tribunals have often been treated as lacking binding force without court recognition, thereby undermining their practical utility (Naveen, D., & Nidhi, B, 2024).

The problem is further compounded in the pre-constitution phase of arbitral proceedings, when the arbitral tribunal has not yet been formed, but the need for urgent protection is most acute. In such situations, international arbitration institutions such as the Singapore International Arbitration Centre (SIAC) or the International Chamber of Commerce (ICC) provide for the appointment of an emergency arbitrator empowered to grant EIR before the constitution of the full tribunal. However, Indonesia's arbitration law, prior to the issuance of Supreme Court Regulation (PERMA) No. 3 of 2023, contained no explicit provisions addressing the emergency arbitrator mechanism or the enforceability of emergency orders issued under institutional rules such as those of the Indonesian National Arbitration Board (BANI). This legal vacuum created uncertainty for parties seeking EIR in Indonesia, as even when such orders were granted under institutional rules, enforcement often required initiating separate proceedings in state courts, which not only delayed the intended urgent protection but also risked compromising the confidentiality and efficiency of arbitration. Recognizing these shortcomings, the Supreme Court issued PERMA No. 3 of 2023 on the Procedures for the Appointment of Arbitrators, Registration of Arbitration Awards, and Execution of Arbitration Awards. Among its notable innovations, PERMA 3/2023 expressly acknowledges the registration and enforcement of interim measures, introduces procedural clarity for their execution, and imposes time limits on court responses, thereby addressing long-standing enforcement issues. The regulation also extends to the recognition and enforcement of foreign interim measures, aligning Indonesian practice more closely with the UNCITRAL Model Law on International Commercial Arbitration and enhancing the country's competitiveness as an arbitrationiendly jurisdiction.

Despite these advancements, several limitations remain in the Indonesian legal framework concerning EIR. First, PERMA 3/2023 does not comprehensively address the scope of interim measures, with its practical application often being limited to security seizures (conservatory attachments) and certain precautionary measures, leaving ambiguity regarding other forms of urgent relief such as prohibitory injunctions, orders for specific performance, or preservation of evidence. Second, the regulation does not expressly regulate the appointment and powers of emergency arbitrators, meaning that institutional rules like the 2025 BANI Arbitration Rules while providing for an emergency arbitrator procedure still face uncertainty in terms of national court recognition and enforcement. Third, the integration between arbitral tribunals and Indonesian courts in the enforcement of EIR remains underdeveloped, as there is no centralized procedural framework ensuring seamless cooperation, potentially leading to inconsistent judicial interpretations and application. Furthermore, the relatively limited awareness and expertise among judges regarding international best practices in arbitration can result in procedural delays, misinterpretation of arbitral powers, or even reluctance to enforce urgent measures, which undermines the very purpose of EIR.

The urgency of addressing these legal and institutional gaps lies in the fundamental principles of legal protection and legal certainty, which are cornerstones of the rule of law and

essential for fostering trust in arbitration as a viable dispute resolution mechanism. Legal protection in this context entails ensuring that parties' substantive and procedural rights are safeguarded through accessible and effective interim remedies, particularly in urgent situations where harm is imminent and irreversible. Legal certainty, on the other hand, requires a predictable and transparent framework whereby parties can reasonably foresee the availability, scope, and enforceability of EIR, thereby reducing the risk of procedural gamesmanship, unnecessary litigation, and erosion of commercial relationships. Inconsistent or delayed enforcement of EIR not only jeopardizes the immediate interests of the applicant but can also undermine the finality and efficacy of the arbitral award, deterring parties especially foreign investors from choosing Indonesia as a seat of arbitration (Turner, R. 2024).

Given Indonesia's growing role as a regional economic hub and its increasing participation in cross-border commerce, strengthening the legal regime for EIR is not merely a procedural reform but a strategic necessity. Harmonizing Indonesian arbitration law with international standards by adopting comprehensive legislative provisions on interim measures, integrating the emergency arbitrator mechanism, and ensuring judicial readiness would enhance the attractiveness of Indonesia as a venue for resolving complex commercial disputes. Moreover, fostering judicial-arbitral cooperation, supported by specialized training and clear procedural guidelines, would reinforce the enforceability of EIR, thereby aligning practice with the underlying objectives of arbitration: efficiency, finality, and party autonomy. Ultimately, the effective implementation of EIR in Indonesia's arbitration framework serves not only the private interests of disputing parties but also the broader public interest in upholding the rule of law, promoting investment certainty, and enhancing the nation's reputation in the global dispute resolution landscape (Barreiro Deymonnaz, R. E, 2025).

METHOD

The research employs a normative juridical method, focusing on the analysis of legal norms, principles, and regulations governing the implementation of Emergency Interim Relief in the arbitration dispute resolution process in Indonesia. This method emphasizes the examination of primary legal materials, including statutory regulations such as Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, the Indonesian Civil Code, and relevant procedural rules established by arbitration institutions such as BANI (Badan Arbitrase Nasional Indonesia). Secondary legal materials, such as academic literature, legal journals, expert opinions, and comparative legal studies, are also utilized to provide theoretical support and interpretative insights. Tertiary legal materials, including legal dictionaries and encyclopedias, assist in clarifying key legal terms and concepts. The approach involves both statutory and conceptual analysis, aiming to identify the adequacy, consistency, and effectiveness of the existing legal framework in ensuring legal protection and certainty for disputing parties. Furthermore, a comparative perspective is incorporated to evaluate Indonesia's regulatory position against international arbitration practices, particularly those under the UNCITRAL Model Law and the ICC Arbitration Rules. its practical implications for arbitration proceedings within the Indonesian legal system.

RESULTS AND DISCUSSION

The study examines the urgency of regulating the concept of Emergency Interim Relief in Indonesian arbitration law to ensure legal protection and certainty for disputing parties.

The concept of *Emergency Interim Relief* (EIR) in arbitration refers to temporary measures granted to protect parties' rights, assets, or evidence before the constitution of a full arbitral tribunal. Its function is to ensure that urgent matters can be addressed without having to wait for the complete arbitration process, which often takes months. In Indonesia, however,

the absence of a clearly defined and robust legal mechanism for EIR has long posed challenges for ensuring both legal certainty and effective protection for disputing parties. Without such a framework, the risk of irreparable harm such as the dissipation of assets, destruction of evidence, or violation of contractual rights remains high, thereby undermining the efficacy of arbitration as a trusted dispute resolution mechanism (Agarwal, M., & Saxena, A, 2021).

This study examines the urgency of regulating EIR within Indonesian arbitration law to ensure that such measures are accessible and enforceable, strengthening the protection of rights and the certainty of legal outcomes. Under the current legal landscape, Indonesia's Arbitration Law (Law No. 30 of 1999) grants arbitral tribunals the authority to issue interim measures, including asset seizures and other provisional remedies, in the form of interim awards. Nevertheless, until very recently there was no clear procedural pathway for the enforcement of such awards. This legal ambiguity weakened the utility of EIR because tribunals lacked the autonomy to execute their own orders, requiring judicial involvement that was not always prompt or predictable. A major step forward came with the issuance of Supreme Court Regulation No. 3 of 2023 (PERMA 3/2023), which addressed critical procedural gaps. The regulation obliges courts to register and execute interim measures ordered by arbitral tribunals, particularly in relation to security seizures or conservative attachment awards.

Article 29 specifically requires tribunals to register security seizure orders with the relevant court, after which the court must enforce the order and notify the tribunal or arbitral institution within a set timeframe. For foreign arbitral awards, PERMA 3/2023 introduces strict timelines: registration within 14 days, issuance of an exequatur within another 14 days, and recognition or enforcement decisions within 30 days. These procedural reforms significantly improve clarity, predictability, and efficiency in the enforcement process, thereby strengthening legal certainty in arbitration proceedings. The urgency to regulate EIR more comprehensively in Indonesia stems from several key considerations. First, the protection of rights and assets is paramount; without enforceable interim relief, parties remain vulnerable to losing valuable property, evidence, or opportunities for redress. In sectors such as construction, shipping, or finance, where timing is critical, the absence of immediate enforceable remedies can lead to irreversible harm. Second, Indonesia must align with global best practices. Leading arbitral institutions such as SIAC, ICC, and HKIAC already have emergency arbitration procedures enabling parties to obtain interim relief even before a tribunal is formally constituted. Without a comparable framework, Indonesia risks discouraging international parties from selecting it as a seat of arbitration, thereby losing potential economic and reputational benefits. Third, regulation of EIR reduces judicial discretion and unpredictability. Historically, Indonesia's undefined notion of "public policy" allowed courts wide latitude to deny enforcement of arbitral awards, particularly interim or emergency orders, which undermined trust in the system. PERMA 3/2023 mitigates this risk by refining the process, introducing fixed timelines, and limiting the scope for arbitrary decision-making. Fourth, improving the EIR framework enhances the attractiveness and accessibility of arbitration in Indonesia. Law No. 30 of 1999 has been criticized as outdated; reforms like PERMA 3/2023 reflect a broader effort to modernize the arbitration regime, improve procedural transparency, and position Indonesia as a competitive dispute resolution hub (Zhang, J, 2024).

From the perspective of legal protection and certainty, several foundational points reinforce the urgency of regulating EIR. By creating a mechanism for tribunals to file interim relief orders with courts and obtain timely enforcement, PERMA 3/2023 addresses a long-standing need for swift action in urgent cases. This not only boosts confidence among arbitration users domestic and international alike but also safeguards the integrity and credibility of the arbitral process itself. A system in which interim relief is routinely enforceable sends a strong message that arbitration in Indonesia is a reliable and self-contained mechanism for resolving disputes. However, despite these advances, challenges remain. The scope of

PERMA 3/2023 is still limited, focusing primarily on security seizures and not expressly addressing other forms of interim relief such as injunctions, asset freezing orders, or preservation of evidence measures, all of which can be crucial in protecting parties' interests.

Moreover, clarity is still needed regarding emergency arbitration under institutional rules such as the 2025 BANI Rules. Questions remain about the binding nature, duration, modification, and enforcement of emergency arbitral awards, as well as how such awards interact with national provisions for annulment or tribunal oversight. In addition, judicial readiness is an ongoing concern; while PERMA 3/2023 sets a solid procedural foundation, it will require consistent application and adequate training for judges to handle EIR-related processes efficiently and uniformly across jurisdictions. In conclusion, the regulation of Emergency Interim Relief in Indonesian arbitration law is not merely a procedural refinement but a fundamental component in ensuring effective dispute resolution. Before the introduction of PERMA 3/2023, the absence of enforceable interim mechanisms weakened arbitration's credibility and efficiency in Indonesia.

The new regulation marks substantial progress by institutionalizing enforcement pathways and procedural timelines, thereby addressing long-standing deficiencies. Nonetheless, further action is essential: expanding the scope of regulated interim measures, clarifying the status of emergency awards under various institutional rules, and building the capacity of courts and practitioners to handle such matters competently. Achieving these objectives will not only safeguard the urgent rights of disputing parties but also elevate Indonesia's arbitration framework to a standard consistent with international best practices, ultimately enhancing both legal protection and certainty in the arbitration dispute resolution process.

The study analyzes the legal framework of Emergency Interim Relief in Indonesia in relation to its implementation and enforcement in the arbitration dispute resolution process.

The legal framework governing Emergency Interim Relief (EIR) in Indonesia's arbitration system is a crucial component that shapes how urgent protections are provided to parties engaged in arbitration. EIR refers to temporary measures designed to preserve rights, assets, or evidence before the arbitral tribunal can render a final decision. In Indonesia, the implementation and enforcement of such relief have historically faced challenges due to the lack of explicit procedural regulations, creating legal uncertainties that impacted the effectiveness of arbitration as a dispute resolution mechanism. Understanding the existing framework requires an examination of several legal instruments, including the Arbitration Law No. 30 of 1999, the Indonesian Civil Procedure Code, the Supreme Court Regulation No. 3 of 2023 (PERMA 3/2023), and institutional arbitration rules (Raj, Y. 2024).

Indonesia's primary statute on arbitration, Law No. 30 of 1999, provides the foundational legal basis for arbitration proceedings in the country. Article 38 of the law explicitly empowers arbitral tribunals to grant interim measures, including security seizures and other provisional remedies, to protect the interests of parties pending the final award. The law states that the tribunal's authority extends to ordering parties to preserve evidence, maintain the status quo, or provide security to avoid irreparable harm. However, while Law No. 30/1999 recognizes tribunals' power to issue such interim measures, it does not provide comprehensive rules for the enforcement of these orders, which is essential to make them practically effective (Zhang, J. 2024).

This enforcement gap resulted in tribunals issuing interim awards that were difficult to execute without judicial intervention, as Indonesian courts traditionally held the authority to enforce court orders but were not clearly mandated to enforce arbitral interim relief. As a result, the lack of a formalized mechanism for enforcing interim awards compromised the purpose of

Emergency Interim Relief, since urgent protection could be delayed or denied due to procedural uncertainties and judicial discretion.

Recognizing these challenges, the Indonesian judiciary issued Supreme Court Regulation No. 3 of 2023 (PERMA 3/2023) to provide procedural clarity and enhance the enforceability of interim measures ordered by arbitral tribunals. PERMA 3/2023 is a landmark regulation that addresses critical enforcement procedures by obliging courts to register and execute interim relief orders issued by arbitral tribunals. Article 29 of the regulation mandates tribunals to submit security seizure orders to the appropriate district court, which must then enforce the order and report back within stipulated timeframes. This registration requirement ensures that interim relief gains legal backing through the court's executive power, bridging the gap between arbitral authority and judicial enforcement.

Moreover, PERMA 3/2023 prescribes specific timelines for the processing of foreign arbitral awards and interim measures. It requires registration of foreign arbitral awards within 14 days, issuance of an exequatur (court recognition and enforcement) within an additional 14 days, and a final decision on recognition or enforcement within 30 days. These fixed procedural deadlines promote certainty and expedite the enforcement process, mitigating past delays that often discouraged parties from resorting to arbitration in Indonesia. The regulation thus plays a vital role in harmonizing Indonesia's arbitration practice with international standards, reflecting Indonesia's commitment to improving its investment climate and dispute resolution framework.

Institutional arbitration rules, including those issued by the Indonesian National Arbitration Board (BANI), also play an important role in the EIR legal framework. Recent updates to the BANI Rules include provisions for emergency arbitration, allowing parties to request urgent interim relief from an emergency arbitrator before the constitution of the full tribunal. The 2025 BANI Rules, for instance, clarify the procedures for applying for emergency relief, the powers of emergency arbitrators, and the limited duration of emergency orders. However, the interplay between these institutional rules and national legislation, especially concerning enforcement, remains an area requiring further legal clarity. While institutional emergency awards can provide swift relief, their enforceability in Indonesian courts depends on the principles laid out in Law No. 30/1999 and reinforced by PERMA 3/2023. Therefore, understanding how institutional and national regulations is essential for comprehensive enforcement (Krasulova, K. R, 2022).

Additionally, Indonesian civil procedural law indirectly influences the implementation of EIR in arbitration. Courts generally apply procedural rules from the Indonesian Civil Procedure Code (Kitab Undang-Undang Hukum Acara Perdata) when handling the registration and execution of arbitral awards. The court's role in supporting arbitration through enforcement mechanisms underscores the importance of integrating arbitration-specific regulations with the broader civil procedural framework. This integration ensures that interim measures ordered by arbitral tribunals are not rendered ineffective by procedural hurdles or inconsistent judicial practices (Maxwell, K, 2025).

Despite these advancements, challenges remain in the implementation and enforcement of EIR in Indonesia. One significant issue is the limited scope of PERMA 3/2023, which primarily focuses on security seizures and attachment orders, leaving other forms of interim relief such as injunctions or preservation orders less clearly regulated. This limitation could constrain tribunals' ability to provide comprehensive emergency protection. Furthermore, the readiness and consistency of Indonesian courts in handling EIR enforcement requests vary, influenced by differing levels of judicial experience and understanding of arbitration principles across jurisdictions.

To address these challenges, further harmonization of arbitration laws and judicial training is necessary. Encouraging courts to adopt a pro-arbitration stance and equipping judges

with specialized knowledge in arbitration and emergency relief will improve the effectiveness of EIR enforcement. Additionally, expanding the legal framework to explicitly cover a broader range of interim relief and clarifying the relationship between emergency arbitration awards and national enforcement procedures will strengthen the overall arbitration ecosystem in Indonesia.

The legal framework for Emergency Interim Relief in Indonesia is evolving significantly, primarily driven by Law No. 30 of 1999 and the transformative PERMA 3/2023. These instruments collectively empower arbitral tribunals to issue interim measures and establish mechanisms for their enforcement, thereby enhancing legal certainty and protection for parties in arbitration. Nonetheless, the continued development of regulations, judicial capacity building, and alignment of institutional rules with national law remain critical to fully realizing the benefits of Emergency Interim Relief in Indonesia's arbitration dispute resolution process. By addressing these aspects, Indonesia can ensure that arbitration remains an effective, reliable, and attractive avenue for dispute resolution in both domestic and international contexts (Gandotra, A, 2021).

CONCLUSION

The examination of Emergency Interim Relief (EIR) in Indonesian arbitration law reveals that while significant progress has been made particularly through the issuance of Supreme Court Regulation No. 3 of 2023 (PERMA 3/2023) gaps still remain that must be addressed to ensure both legal protection and certainty for disputing parties. Before the enactment of PERMA 3/2023, the absence of a clear procedural mechanism for the enforcement of interim arbitral measures weakened the utility of EIR, leaving parties vulnerable to asset dissipation, evidence destruction, and other forms of irreparable harm. The combination of Law No. 30 of 1999, which grants tribunals the authority to issue interim measures, and PERMA 3/2023, which provides procedural clarity for their enforcement, has created a more reliable framework that aligns more closely with international arbitration standards. By introducing fixed timelines, mandating court registration of interim measures, and limiting judicial discretion, PERMA 3/2023 strengthens Indonesia's attractiveness as an arbitration venue. However, the regulation's scope remains narrow, focusing primarily on security seizures and attachment orders, without explicitly covering other crucial forms of interim relief such as injunctions, asset freezing orders, or preservation of evidence. Furthermore, the interaction between institutional rules such as the emergency arbitration provisions in the 2025 BANI Rules and national enforcement mechanisms still requires legal clarification to avoid procedural uncertainty.

Based on these findings, it is recommended that Indonesia expand the statutory and regulatory coverage of EIR to include a broader range of interim measures, ensuring that tribunals have the authority to grant, and courts the obligation to enforce, various urgent remedies beyond asset attachment. Additionally, legislative or regulatory amendments should explicitly address the recognition and enforcement of emergency arbitration awards, harmonizing institutional procedures with national law. Judicial capacity building is also essential; consistent training and specialization in arbitration matters will help judges apply EIR enforcement rules uniformly and in line with pro-arbitration principles. Finally, continued alignment with global best practices drawing from established frameworks in leading arbitral jurisdictions such as Singapore, Hong Kong, and the ICC will further enhance Indonesia's competitiveness as a preferred seat of arbitration. By implementing these measures, Indonesia can solidify EIR as a robust, enforceable, and trusted mechanism within its arbitration regime, ensuring that urgent disputes receive timely and effective resolution while upholding the principles of legal certainty and party autonomy.

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