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The urgency of the approval of the people's representative council related to the ratification of international trade agreements (analysis of decision of MK-13-PUU-XVI-2018)

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Abstract
People's sovereignty must be upheld in a democratic country so the government cannot ignore people's participation. This problem lies in Article 11 of the 1945 Constitution and Article 10 of Law No. 24 of 2000. This article will examine more deeply whether it is necessary to include it in the approval criteria by law related to international trade agreements. And is it true that the articles submitted in the petition of non-governmental organizations to the MK contradict the 1945 Constitution? This research is normative legal research with statutory and conceptual approaches. Legal material is collected by reviewing related literature and analyzing various legal references relevant to the problem under study for further qualitative and descriptive analysis. This is done by conducting an in-depth and holistic study of multiple links and evaluating legal material related to the issue. The study results show that all international agreements that have a broad impact, one of which is an international trade agreement, must obtain the approval of the DPR in determining participation in the contract. Some of the articles in the petite submitted by NGOs are unconstitutional, and finally, international trade agreements must be legalized through law.
Keywords: constitutional court decision; DPR approval; ratification

1. Introduction

The urgency of the approval of the People's Representative Council in relation to the ratification of international trade agreements is linked to the democratic principles and the role of the legislature in representing the interests of the people (Dür & Mateo, 2014) (Hafner-Burton, 2005). The House Of Representatives, as the representative body of the Indonesian people, plays a vital role in ensuring that the government's actions align with the aspirations and welfare of the citizens. When it comes to international trade agreements, they often have far-reaching implications for the country's economy, industries, labor market, and various sectors of society. These agreements can influence matters such as tariffs, market access, investment rules, intellectual property rights, and regulatory frameworks, among other things. Consequently, they have the potential to significantly impact the livelihoods, businesses, and overall well-being of the Indonesian population.

By involving the House Of Representatives in the approval and ratification process of international trade agreements, it allows for a more inclusive and democratic decision-making process. The involvement of the House Of Representatives ensures that elected representatives, who are accountable to the people, have the opportunity to review and assess the potential consequences and benefits of these agreements on behalf of their constituents. Furthermore, trade agreements often involve complex legal, economic, and social issues that require thorough examination and expertise. The House Of Representatives, through its committees and members, can scrutinize the details of the

agreements, assess their potential impacts, and engage in discussions and debates to ensure transparency and accountability in the decision-making process.

Involving the House Of Representatives in the approval and ratification of international trade agreements also helps to foster a broader consensus among different stakeholders (Woolcock, 2005). It allows for input from various sectors of society, such as labor unions, industry associations, civil society organizations, and academic experts, who can contribute their perspectives and concerns during the deliberation process. Ultimately, by seeking the approval of the House Of Representatives for the ratification of international trade agreements, the government ensures that decisions regarding such agreements are made collectively and in the best interests of the Indonesian people. It provides an opportunity for democratic checks and balances, as well as for ensuring that the benefits and potential risks of international trade agreements are carefully evaluated before they are implemented. It's important to note that the specific constitutional and legal provisions governing the approval and ratification of international trade agreements in Indonesia may vary. Therefore, it is recommended to refer to the relevant laws, regulations, and constitutional provisions to obtain a more detailed and accurate understanding of the specific processes and requirements involved.

International trade agreements, whether bilateral (Roisah et al, 2022), regional, or global, should obtain approval through the House Of Representatives when they are ratified (Sell, 2007). Most of the international trade agreements are approved using Presidential Decrees because the government feels that international trade agreements are not an urgent matter, as stated in Article 10 of Law No. 24 of 2000, which positions issues of politics, peace, defense, state security, changes in territory or delimitation of borders. The part of the Republic of Indonesia, sovereignty or sovereign rights of the state, human rights and the environment, establishment of new legal norms, foreign loans and grants as essential matters that require the approval of the House of Representatives and ratification by law (Roisah et al, 2022).

Recently several NGOs submitted a judicial review of Article 2, Article 9(2), article 10, and Article 11(1) of the 1945 Constitution. In the form of presidential decrees and laws, although only in the form of enabling legislation (ceremonial laws) and still not in the form of implementing legislation (convention norms are fully transformed into statutes). However, the public has had a direct impact in the form of intense competition trade between local business people who only have minimal cainternational agreementtal and foreign investors who have significant cainternational agreementtal, so many Indonesian business people suffer losses from this situation. Some NGOs have also filed a judicial review of the ASEAN charter which was ratified through enabling legislation (UU No. 38 of 2008 regarding the ratification of the ASEAN Charter). In its decision, the Court argued that Article 1 Point 5 of the ASEAN Charter Ratification Law does not apply automatically. Because Article 5 paragraph (2) of the ASEAN Charter states that member countries are obliged to take the necessary steps, including making appropriate domestic legislation. So, the formation of the ASEAN trade area depends on ASEAN member countries.

The author is of the opinion that even though the Constitutional Court declares that it is not valid by itself if there has not been a transformation into an Implementing Law (material law), if a country has stated that it is bound by an agreement either through signing, exchanging documents, ratification, accession, then the transformation will be immediately attached in international agreements. It doesn't go inward but outward. The consequence of Indonesia's adherence to the ASEAN charter is that many foreign business actors from all ASEAN countries can quickly enter Indonesia. If Indonesia refuses the arrival of these businessmen, then Indonesia can be criticized for violating the international trade agreements they have ratified. So the impact cannot be avoided even though it does not apply internally.

In the era of globalization and global economic integration, international trade agreements play a vital role in economic relations between countries (Brkić & Efendic, 2005). International trade agreements are formal agreements between countries to facilitate the flow of goods, services, and investment between the parties involved (Saayman

et al, 2016). Countries generally have different trade policies and rules to protect their national interests (Grote, 2009). However, with increasing globalization, it has become increasingly important for governments to establish mutually beneficial trade relations and facilitate free trade flow. A country's ratification of international trade agreements plays an essential role in ensuring the effective implementation and implementation of these agreements at the national level. In the Indonesian context, the approval of the House of Representatives regarding the ratification of international trade agreements has a significant urgency. Based on the background above, there is a need for research on the importance of House Of Representatives approval in international trade agreements. And is it true that the articles submitted in the NGO petition to the MK contradict the 1945 Constitution.

2. Methods

This research uses the type of normative juridical research. A normative juridical approach is an approach that is carried out based on the primary legal material by examining the theories, concepts, legal principles, and laws and regulations related to this research. This approach is also known as the library approach by studying books, rules and regulations, and other documents related to this research.

The approach used in this research is the normative juridical or statutory approach. This is done because the starting point in this research is an analysis of laws and regulations, international conventions, and several rules related to international trade agreements. Juridical research uses positive legal concepts, namely that law is synonymous with written norms made and promulgated by authorized state institutions or officials. With the statutory approach, it is hoped that legal products will not only be built for space. Preferably, he should appear to solve the problem as a product of legislation in a statute.

Data collection is an important stage in the research process because only by getting the correct data will the research process continue until the researcher gets answers to the predetermined problem formulations. Data sources consist of two kinds, primary data sources, and secondary data sources. Preliminary data is a source of data obtained directly from the start. Primary data can be in the form of subject (person) ointernational agreementnions individually or in groups, results of observations of an object (physical), events or activities, and test results. At the same time, indirectly acquired research data through intermediary media is known as secondary data. Secondary data generally includes evidence, historical records, or reports cominternational agreementled in published and unpublished archives (documentary data).

In this study, the authors did not use primary data sources but only secondary data sources because general normative research used secondary data. This secondary data is divided into primary legal materials and secondary legal materials. Primary legal material is legal material that is authoritative, meaning that it has authority, consisting of statutes, official records, or treatises on making laws and judges' decisions. Meanwhile, secondary legal material is in the form of all legal publications that are not official documents. Publications on law include textbooks, legal dictionaries, law journals, and commentaries on court decisions. In this study, the authors used two legal materials.

The primary legal material in this study is Law No. 24 of 2000 concerning international treaties, Law No. 32 of 2004 concerning regional government with the sinternational agreementrit of regional autonomy, and Law No. 38 of 2008 Regarding the ratification of the ASEAN Charter. It follows the principles stated in the Vienna Convention on the law of treaties of 1969 and The Asean Charter. At the same time, the secondary legal materials are textbooks, thesis/dissertation research results, law journals, and symposium results on international trade law.

3. Results and Discussion

3.1. The Importance of the Approval of the House of Representatives in International Trade Agreements

As stated above, the People's Representative Council is an extension of the people's hand. The people have the right to know what policies the government will implement towards economic policies in Indonesia that will directly impact them. Problems often arise when faced with the implementation of an international agreement. The issuance of the Constitutional Court-13-Puu-Xvi-2018 decision was the second judicial review submission filed concerning the application of international law to national law. In this case, what is being disputed by the parties applying is that many international trade agreements have been ratified through presidential decrees rather than through statutes. The general public thinks that if legalized through a presidential decree, it does not need approval through the House Of Representatives. The House Of Representatives is only asked for ointernational agreementnions related to international treaties to be ratified.

Regarding whether or not the House Of Representatives agrees or disagrees, of course, it will not affect the actions to be taken by the initiating institution because the House Of Public Representatives is only asked for consideration during the consultation stage before ratification. To determine whether or not there is approval of the House Of Representatives for a substance of an international treaty is carried out through a consultative mechanism based on Article 2 of the Law on International Agreements. The results of these consultations are recommendation in nature and are not bound but respected.

Specifically regarding plans for international agreements or cooperation in-and-by the regions, before being consulted and coordinated with the Minister of Foreign Affairs, these plans must comply with internal procedures in each area. The internal process referred to under Law No. 32 of 2004 concerning regional government is the existence of ointernational agreementnions and considerations from the House Of Representatives for the plan to make international agreements by the provincial government. So this process shows that any institution that will form a global contract must first consult with the Ministry of Foreign Affairs to ensure that the international agreement is safe from 4 aspects: political, juridical, technical, and security.

Consultation and coordination mechanisms are carried out through inter-ministerial meetings, correspondence communications, or other means to solicit political/juridical views and other relevant aspects regarding the plan to conclude international agreements. This coordination is intended to create a common perception in dealing with foreign parties so that they are aligned with foreign policy and national interests.

In international agreements, the function of the Ministry of Foreign Affairs in the consultation and coordination mechanism is to ensure that the agreement is safe from various aspects, namely:

a. Political; the agreement does not conflict with the central government's foreign policy and foreign relations policy in general.
b. Security; the agreement does not have the potential to threaten domestic stability and security.
c. Juridical; the agreement can be legally justified according to national and international laws.
d. Technical; the agreement does not conflict with the technical policies of the government.

Law No. 24 of 2000 concerning international agreements does not explicitly regulate how the government decides whether to approve or not to make an agreement. The decision-making process uses commonly taken by the government, starting from the technical level. If necessary and no decision is obtained, it can be raised to the policy and political level, including through the Coordination Meeting for Politics/Economy/Kesra and a Cabinet Meeting.

The procedures that must be carried out in this consultation and coordination mechanism are as follows:

1. The initiating agency/focal point coordinates meetings involving the Ministry of Foreign Affairs and other related agencies for the assessment stage, formulation of the position/guidelines of the Delri, and implementation of negotiations.
2. If the interdepartmental meeting approves the discussed draft, the initiating agency/focal point will prepare a counter draft. This counter draft will be submitted to partners through the Ministry of Foreign Affairs. The process of exchanging documents (draft/counter draft) is ongoing. If the two parties have not agreed on the international agreement, they will discuss it in the negotiation stage, which will also involve the Ministry of Foreign Affairs.
3. The inter-ministerial meeting must first discuss the consequences of the Indonesian Government's participation in an international agreement so that a deal can be politically safe, juridically safe, technically safe, and security safe.

The problems that later emerged through the submission of a judicial review by several NGOs related to point number 3 above, namely "the consequences of the participation of the Indonesian government in an international agreement, so that an agreement can be politically safe, legally safe, technically safe, and security," THE People's Representative Council as the people's representatives should be included in this third stage, so that the People's Representative Council can assess from the outset the negotiation of an international agreement, especially regarding trade. Thus, when asked for comments regarding international agreements referred to by the House Of Representatives, The House Of Representatives can convey it appropriately to the public so that it does not cause problems in the future if, before the international agreement is ratified, the community already knows the contents of the international agreement. Even if there is criticism, it will be conveyed through the People's Representative Council by the people so that there are no parties who wish to carry out a judicial review of the contents of an international agreement (Judicial review of the ASEAN Charter).

Due to the uniqueness of international trade agreements, which directly impact the people of Indonesia, every international trade agreement should be ratified through laws because approved through laws will guarantee the security of these international agreements for Indonesia. In the decision of the Constitutional Court No. 13/Puu-Xvi/2018, it says that the type of agreement outside of Article 10 still requires the approval of the House Of Representatives if it meets the criteria of Article 11 Paragraph 2 of the 1945 Constitution, namely if it causes broad and fundamental consequences related to the burden on state finances and requires changes or establishment Law.

The uniqueness of international trade agreements, which directly impact the people of Indonesia, can indeed be a compelling argument for ratifying them through laws rather than relying solely on presidential decrees. Ratifying international trade agreements through laws provides a higher level of legal certainty and security for Indonesia in its international commitments.

The decision of the Constitutional Court No. 13/Puu-Xvi/2018 reinforces this perspective. According to the decision, agreements that fall outside the scope of Article 10 of Law No. 24 of 2000 would still require the approval of the House of Representatives if they meet the criteria specified in Article 11, Paragraph 2 of the 1945 Constitution. This criterion includes agreements that have broad and fundamental consequences related to the burden on state finances and require changes or the establishment of new laws.

By requiring the approval of the House of Representatives for such agreements, Indonesia ensures a more comprehensive and deliberative process. The involvement of the legislative branch in the ratification of international trade agreements allows for a thorough examination of their potential economic, financial, social, and legal consequences. The House of Representatives can evaluate the potential impact on state finances and consider whether any changes to existing laws or the establishment of new laws are necessary to accommodate the agreement.

Ratifying international trade agreements through laws also enhances transparency and accountability. The legislative process provides opportunities for public consultations, stakeholder engagement, and public hearings, allowing different perspectives and concerns to be addressed. This inclusive approach ensures that the interests of various stakeholders, including the general public, are taken into account during the decision-making process.
Furthermore, ratifying international trade agreements through laws can contribute to the long-term stability and enforceability of these agreements. Laws carry greater legal weight and permanence compared to presidential decrees, providing a solid legal foundation for the implementation of the agreements and the resolution of any potential disputes that may arise. It's important to recognize that the decision to ratify international trade agreements through laws is ultimately a policy choice made by the Indonesian government and lawmakers. The specific processes and requirements for approval and ratification may vary depending on the legal and constitutional frameworks in place.

3.2. Basis for the Application of International Law in National Law

Indonesian laws, doctrines, and practices regarding the status of international agreements in Indonesia's national law, which still need to be developed, often raise practical problems at the level of implementation of international agreements within the framework of the national legal system. This ambiguity is part of the Indonesian legal system's absence of law or doctrine regarding the relationship between international law and federal law. Various confusions arose in the world of practitioners in answering questions about the status of international treaties in the Indonesian legal system. As described above, Law No. 24 of 2000 concerning international agreements does not explicitly explain the position of international contracts in the legal system. Still, it only states that international agreements are ratified by laws/presidential regulations without further explaining their meaning. And its consequences for Indonesian legislation.

Does ratification by law make international agreements equivalent to statutes? This is a question that still needs to be answered to date. The author thinks that international treaties cannot be equated with laws because of the following:

First, international agreements are formed by countries, while the House Of Representatives forms rules. Then the contents of laws and international contracts are very different, where international agreements regulate affairs between countries while laws regulate conditions in a country. So it is clear that laws and international treaties cannot be equaled. As explained earlier, ratifying international agreements is categorized as enabling legislation only in ratification laws and not a copy-paste of an international treaty. When an international agreement has been transformed into a new direction, an international agreement that has been transformed into a country's laws can be equivalent. Concerning this problem, Indonesia still needs to determine which school to apply international law to national law, so some use monism, and some use dualism. Many experts have discussed this theory, but the author will highlight several cases in deciding whether most use monism or dualism in determining international trade agreement law.

Before discussing further, the author will briefly explain the two legal theories. The flow of dualism is a school that places international law as a legal system separate from national law. In this case, there is no hierarchical relationship between these two legal systems. The consequence of this flow is the need for a "transformation" legal institution to convert international law into national law based on the laws and regulations that apply to this convention procedure. The binding of a country to an agreement (for example, through ratification) must be followed by a transformation process through the making of national legislation. By converting these international law principles into federal law, these rules will change their character to national legal products, apply as national law, and are subject to and enter into the order of national legislation. Because the system is separate, there is no possibility of conflict between these two laws.

The theory of dualism in international law indeed considers international law and national law as separate legal systems without a hierarchical relationship between them. According to this perspective, international law and national law operate independently,

each with its own set of rules and principles. This approach recognizes that international law exists at the global level and is binding on states, while national law governs the internal affairs of a particular state.

Under the theory of dualism, when a state becomes a party to an international agreement, such as a treaty or convention, it does not automatically become part of the domestic legal system. Instead, a transformation process is required to convert international law into national law, making it applicable and enforceable within the state's legal framework. This transformation typically involves the enactment of national legislation that incorporates the provisions of the international agreement into domestic law.

The purpose of this transformation process is to ensure that international obligations are effectively implemented and enforced within the national legal system. By converting international law principles into national legislation, the rules assume the character of domestic law and become subject to the authority and jurisdiction of national courts and institutions. This allows for the enforcement and application of these rules in a manner consistent with the specific legal and constitutional framework of the state.

One of the key implications of the dualist approach is that conflicts between international law and national law are minimized. Since international law and national law are separate systems operating in different spheres, there is no inherent conflict between the two. International law remains applicable to states at the international level, while national law governs the internal affairs of the state.

However, it is important to note that despite the separation between international law and national law under the dualist framework, there can still be challenges and potential conflicts in practice. These conflicts may arise when states fail to effectively transform and incorporate international law obligations into their domestic legal systems or when national laws are incompatible with international obligations.

In summary, the theory of dualism in international law considers international law and national law as separate legal systems (Londras, 2010). The transformation process is necessary to convert international law principles into national legislation, making them applicable within the domestic legal framework. This approach aims to ensure the effective implementation of international obligations while minimizing conflicts between international and national law. However, practical challenges and conflicts can still arise, necessitating careful consideration and coordination between international and national legal systems.

The second stream is monism which places international and national laws as part of a unified legal system. International law applies within the scope of federal law without going through a transformation process. The binding of a country to an agreement (for example, by ratification) is the incorporation of the contract into national law, and the same federal legislation is not needed to enforce it in national law. Even if there is national legislation regulating the same issue, the legislation in question only implements the intended international legal principles. In this case, the applicable international law in the national legal system will remain international law. Given that it is a unified system, there is the possibility of a conflict between federal and international law. For this reason, this school is divided into two: those prioritizing national law (national primate law) and those prioritizing international law (international primate law).

From the explanation above, Indonesia indirectly tends to use the concept of dualism in applying international agreements in national law. This can be seen in every international trade agreement ratified by Indonesia, such as the trade agreement between ASEAN and China through Presidential Decree Number 48 of 2004, P4M between Indonesia and Singapore, which was ratified by Presidential Decree No. 6 of 2006, P4M between Indonesia and India through Presidential Decree No.93 of 2003, Law no. 38 of 2008 concerning ratification of the ASEAN Charter.

In some legal systems, when an international agreement is ratified by law, it can have the same legal force and effect as statutes enacted by the national legislature (Lupu, 2015; Vázquez, 2008). This means that the provisions of the international agreement

become part of the domestic legal system and can be directly enforceable in domestic courts. In such cases, the international agreement would be considered equivalent to statutes in terms of their legal status and authority. However, in other legal systems, there may be a distinction between statutes enacted by the national legislature and international agreements ratified by law (Ganor, 2002; Danilenko, 1999). While both may have binding legal force, there could be differences in the procedural requirements, interpretation, and application of these legal instruments. The specific legal effects of international agreements ratified by law will depend on how they are incorporated into domestic law and the domestic legal framework.

It's worth noting that the legal status of international agreements can also be influenced by constitutional provisions and principles. Some countries may have constitutional provisions that grant international agreements a higher level of authority, considering them as part of the domestic legal system even without explicit ratification by law. In such cases, the international agreements may be regarded as having a status equivalent to or even higher than ordinary statutes. To determine the specific legal implications of ratifying international agreements by law and their equivalence to statutes, it is necessary to consult the relevant national laws, constitutional provisions, and legal interpretations of the jurisdiction in question.

It is also important to consider that international law is a distinct legal system that operates separately from domestic law. International agreements are typically binding between the states that have ratified or acceded to them, and their interpretation and application may be subject to international legal principles and dispute resolution mechanisms.

3.3. Incompatibility of Views between the Institution Initiating the Trade Law and the Ministry of Foreign Affairs

In forming an international trade agreement, the initiating institution will, of course, always be guided by Trade Law No. 7 of 2014 so that it will cause the initiating agency to feel that "at any time if the Indonesian side feels disadvantaged by an international trade agreement that has been ratified, they can directly leave the agreement." This action caused Indonesia's failure to implement an international trade agreement wide open. To effectively and efficiently benefit from an international agreement, every country must be careful in every deal stage, from its formation, implementation, and termination. Likewise, what was done by the delegates of the Republic of Indonesia (from now on referred to as the Indonesian Republic Delegation) representing the Indonesian government in international negotiations.

The Indonesian Delegation has consistently applied the precautionary principle since the beginning of negotiations by following the guidelines of the Indonesian Delegation. Guidelines for the Indonesian Delegation were made to create uniformity in the position of the Indonesian Delegation and coordination between government departments/institutions in making international agreements. This is bearing in mind that in Article 5 Paragraph 1 of Law No. 24 of 2000 concerning international agreements, it is stipulated that state agencies and government agencies, both departmental and non-departmental, at the central and regional levels, who have plans to conclude international agreements, first carry out consultations and coordination regarding the project with the Minister.

Article 85 Undang-undang perjanjian internasional states:

> *"Upon approval from the People's representatives council, the government can review and cancel international trade agreements whose approval is carried out by law based on national interests."*

With the formulation of this article, the report was formed without consulting the relevant ministries. However, in reality, the formulation of this Regulation has complied with the formal process mandated in Law No. 12 of 2011 governs the process of creating laws and regulations. During the formulation of the Trade Bill, the Ministry of Foreign Affairs has followed a series of discussion processes. It has responded to the risks of applying Article 85 LAW against international law. This response has also been conveyed on several

occasions, even since the beginning of the discussion of the Trade Bill. However, the provisions for canceling international trade agreements in Article 85 prove that the ministry or agency initiating Law needed to fully understand the critical role of VCLT 1969 as one of the sources of international law and the consequences that may arise from violations of these conventions.

3.4. Ratification of International Agreements

The term ratification used in the practice of international treaty law in Indonesia, especially Law No. 24 of 2000 concerning international agreements, is taken and translated from the term "ratification." According to Article 2 (1) b of the 1969 Vienna Convention on international treaties, ratification is: "Ratification, acceptance, approval, and accession, mean in each case the international act so named whereby a State establishes on the international plane its consent to be bound by a treaty."

Furthermore, according to Article 14 of the 1969 Vienna Convention on international treaties, ratification is one way to bind oneself to an agreement and is usually always preceded by signing. Examples of standard formulas that are always formulated to describe ratification requirements are as follows:

a. The present Convention shall be open for signature by all states members of the United Nations,
b. The present convention is subject to ratification. The instruments of ratification shall be deposited with the Secretary-General of the united nations.

Various international agreementeces of literature in Indonesia explain the two types of agreements based on the stages of their manufacture, namely:

1. The agreement was made in three stages: negotiation, signing, and ratification.
2. The agreement was made in two stages: negotiation and signing. From the above formulation, ratification is a further legal action of a country to confirm the act of signing that preceded it. The Convention also recognizes other ways of binding, such as accession, which is not preceded by signing but by the existence of an agreement that has been formed and is open to countries that do not sign to participate. Law No. 24 of 2000 concerning international treaties translates ratification and accession into one term: ratification.

Interacting with national constitutional procedures, both theory and state practice need to interpret ratification of international agreements from two separate but related procedural perspectives, namely internal policies and external systems. From the perspective of internal procedures, ratification of international agreements is a matter of constitutional law, namely Indonesian national law, which regulates executive and legislative authority in making international agreements and regulates what legal products must be issued to serve as a basis for Indonesia to carry out external procedures. Meanwhile, from the perspective of external procedures, ratifying international agreements refers to the act through which a state expresses its consent to be legally bound by a treaty, whose validity is regulated by international treaty law on the international level.

Confusing the meaning of ratification from the internal and external aspects described above, the purpose of ratification institution (which in Indonesia is translated as ratification) is understood differently and simultaneously. The ratification institution originates from the concept of international treaty law, which is always interpreted as an act of confirmation from a country against the legal actions of its officials who have signed an agreement. This ratification will mark the treaty's entry into force to the country. From this legal point of view, ratification essentially confirms a legal fact that precedes it (signing or accepting the text).

3.5. The Articles Requested by the Petitioner in the Judicial Review of Law No. 24 of 2000 Concerning International Agreements Against the 1945 Constitution

The first article that was subject to judicial review was Article 2 of Law No. 24 of 2000 with Article 11(2) of the 1945 Constitution:

Article 2 of Law No. 24 of 2000 states:

"The Minister gives political considerations and takes the necessary steps in drafting and ratifying international agreements, in consultation with the House of Representatives concerning the public interest."

Article 11 of the 1945 Constitution of the Republic of Indonesia:

1. With the approval of the House Of Representatives, the power to declare war, make peace, and establish treaties with foreign countries lies with the president.
2. when the president makes other international agreements that have broad and fundamental consequences for people's lives related to the burden on state finances and require changes or enactment of laws, must, with the approval of the House Of Representatives.
3. Further provisions regarding international agreements are regulated by law. Some of the applicants filed a judicial review related to the articles above.

This is related to the clause in the Constitution and the Law, which states that Article 11 (2) of the Constitution states that the ratification of an International Agreement must go through the approval of the House Of Representatives. Still, the International Agreement only says that it requires consultation with the House Of Representatives when it is about to ratify an international agreement. Consent is a statement of understanding (contract); justification (approval, approval, and so on), while consulting is exchanging ideas or asking for consideration in deciding something (for example, regarding trading business).

So the difference between the two clauses is evident in the effect of the act of consent and consultation. When an Institution is asked for approval, the decision will significantly impact whether the Institution approves or not. However, it is a different case with consultations; whether the Institution under consideration will be more in favor of agreeing or not will not have any impact. Judging from the action of only consulting, it will not cause any legal consequences related to making a decision. In its decision, the Constitutional Court panel of judges stated that insofar as the applicant's reasons related to unconstitutionality were unconstitutional. However, here, the author has a different view regarding the petitum submitted by the parties about Article 2 of the International Agreement Law with Article 11 of this Constitution. The author believes that the applicant's reason for saying that Article 2 and Article 11 of the Constitution are unconstitutional is correct because grammatically and practically related to the process of "approving" and "consulting" are two different things, as the author has previously described.

In this decision, the Constitutional Court interpreted that the approval of the House of Representatives could be obtained through the ratification of laws and consultations with the output of recommendations. And it is said that his suggestions are not bound but respected. Another article was subject to material review, namely Article 9 (2) of Law No. 24 of 2000 with Article 11(2) of the 1945 Constitution. In its decision, again, the constitutional court panel of judges stated that the petitioner's request regarding this article had no legal basis. This is because the paper relates to the classification of international agreements, which will be ratified using laws or presidential decrees. In its considerations, the Constitutional Court also stated that because not all international agreements require the approval of the House Of Representatives, the classification of international treaties requiring the support of the House Of Representatives is the only one that is ratified using law and a contrario means that the ratification of other international agreements does not require the existence of different forms of law. Regarding the considerations of the panel of judges above, the authors believe that if, indeed, no other legal document is needed other than matters requiring the approval of the House Of Representatives. Then the question is if an international agreement requires ratification but is not included in the material of an international agreement that requires the approval of the House Of Representatives, then with what instrument will the international treaty be ratified if no other legal form is given?

The background for filing a judicial review of this article is that there are many international trade and investment agreements both in the bilateral, regional, and multilateral spheres, such as the trade agreement between ASEAN and China, which was ratified through Presidential Decree Number 48 of 2004, and the agreement to increase investment protection (P4M) or known as the Bilateral Investment Treaty (BIT) (Elkins et

al, 2006), such as P4M between Indonesia and Singapore which was legalized by Presidential Decree No. 6 of 2006 or P4M between Indonesia and India through Presidential Decree No. 93 of 2003, including international trade and investment agreements between Indonesia and the Union Europe (IEU CEPA) (Ing & Losari, 2021) and Regional Comprehensive Economic Partnership (RCEP) (Lu, 2019) and Bilateral Investment Treaty (BIT) (Neumayer & Spess, 2005) with other countries Together with the Indonesian civil society Joint network, as well as Indonesia's agreements with international organizations (ASEAN (Anwar, 1997), WTO (Rabbani, 2021), APEC, ADB, G20, etc.

The above international trade agreements (Urata, 2002) should be legalized through law because these global trade agreements have a broad impact on the people of Indonesia. "The approval of the House Of Representatives in international agreements is under the principles of democracy (Lenaerts, 2013) and people's sovereignty through its executors (House Of Representatives)," said Cenuk, who this applicant deliberately presented. This view was conveyed by a lecturer in economic law at Lancang Kuning University, Pekanbaru, Cenuk Widiyastrisna Sayekti, when stating an expert at the trial that continued testing several articles in Law no. 24 of 2000 concerning International Agreements in the Jakarta Constitutional Court Building.

The People's Representative Council, as an extension of the People's hand, should have been asked for approval regarding the material of international trade agreements. The clauses in the International Agreement Law must be adjusted to the 1945 Constitution; namely, all international agreements that have a broad impact on society must go through the approval of the House Of Representatives—related to the matters discussed above, namely the process of ratifying international treaties within a country. The above discussion goes beyond the ratification of external international agreements.

3.6. Important Points of the Constitutional Court Decision

a. The Constitutional Court rejected the request for cancellation of articles 2, 9(2), and 11 (1); thus, the Constitutional Court reaffirmed that not all international treaties must have the approval of the House Of Representatives (Huda, Ni'matul, Dodik Setiawan Nur Heriyanto, 2021).
b. About the application for article 10 of the International Agreement Law, the Constitutional Court interpreted that this article was contrary to the 1945 Constitution. If it was only a type of agreement in points (a) to (f), that must obtain the approval of the House Of Representatives.
c. The Constitutional Court emphasized that if an International Agreement does not cause broad and fundamental consequences related to the burden on state finances and requires changes or the formation of laws, the approval of the House Of Representatives is not needed;
d. To determine that an agreement has broad and fundamental consequences, it cannot be resolved in a limiting manner. Still, it must be assessed casuistically based on considerations and developments in national and international legal requirements.
e. To determine whether or not there is approval by the House Of Representatives for an International Agreement substance, it is carried out through a consultation mechanism based on Article 2 of the International Agreement Law. The results of these consultations are recommendations and are not binding but respected.
f. The government welcomes interpreting the Constitutional Court, which the government and the House Of Representatives have practiced. Types of agreements other than Article 10, such as trade agreements that open market access, have been processed with the approval of the House Of Representatives. For example, protocol 6 of the ASEAN Framework Service has been submitted to the People's Representative Council for ratification through Law No. 4 of 2018.

Constitutional Court Decision No.13/PUU-XVI/2018 expands horizontally and narrows vertically (Marpaung, 2020). The purpose of expanding horizontally here is that international agreements approved by the House Of Representatives Are not only "a matter of politics, peace, defense, national security, changes in territory or determination of the

boundaries of the territory of the Republic of Indonesia, sovereignty or sovereign rights of the state, human rights and the environment, formation of new legal norms, external loans and grants" but also other agreements that have broad implications for the community. And what is meant by narrowing it vertically are international agreements that require the approval of the House of Representatives (Pratomo & Riyanto, 2018), only international agreements that have a broad impact on society (Linos & Pegram, 2016). The Constitutional Court also stated that the determination of whether the People's Representative Council should approve an international agrement was seen from the substance of the International Agreement, not from its title. To determine that an agreement has broad and fundamental consequences, it cannot be resolved in a limiting manner. Still, it must be assessed casuistically based on considerations and developments in national and international legal requirements. The Constitutional Court confirmed that a type of agreement outside Article 10 still requires the approval of the House Of Representatives if it meets the criteria of Article 11 Paragraph 2 of the 1945 Constitution (Lindsey, 2002), namely if it causes broad and fundamental consequences related to the burden on state finances and or requires changes or the formation of laws (Stiglitz, 2005).

In its decision, the Constitutional Court also argued that the approval of the House Of Representatives could be made through consultations with the output of recommendations. And through the ratification of the Act. In the law, it is said that approval is obtained only through the law. Still, the Constitutional Court has a new meaning related to the support of the People's Representative Council, where the approval of the People's Representative Council can be obtained through consultations whose output is in the form of recommendations that are independent but respected. Regarding the new interpretation by the Constitutional Court in the Constitutional Court decision No.13/PUU- XVI/2018, it is still unknown whether it will have a positive or negative impact on the process of ratifying international agreements in Indonesia.

4. Conclusions

Every international agreement should require the approval of the House Of Representatives, significantly when the deal's substance impacts the broader community. This manifests the implementation of people's sovereignty mandated by Article 11 paragraph (2) of the 1945 Constitution to create participation, transparency, and accountability in a democracy. "The approval of the People's Representative Council in international agreements is under the principles of democracy and people's sovereignty through its implementers (the People's Representative Council)."

There are several new things from the Constitutional Court Decision No. 13/PUU-XVI/2018, namely the first Constitutional Court decision expands horizontally and narrows vertically or qualifications. The point is that the International Agreement, which requires the approval of the House Of Representatives, is not only limited to the 6 points contained in Article 10 of the International Agreement Law, but all international agreements require the approval of the House Of Representatives as long as they have a broad impact on society. And the People's Representative Council also has a control function in all activities carried out by the Indonesian government, so it is very appropriate when the People's Representative Council approves an international trade agreement. However, there has been a consultation process from start to finish between the initiating agency and the Ministry of foreign affairs which will discuss and view from a political, juridical, security, and technical perspective. The government welcomes the interpretation of the Constitutional Court regarding international trade agreements that have a broad impact on society which should require the approval of the House Of Representatives. The government has recently put this into practice by submitting Protocol 6 of the ASEAN Framework Service to the People's Representative Council for ratification through Law No.4 of 2018.

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Author Contribution
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Ethical review and approval were waived for this study due to no personal data was collected in this study. The number of informants is six, and the interviews are mainly to gain insights on how food bank operates in Indonesia, no personal information is collected.

Informed Consent Statement
Informed consent was obtained from all subjects involved in the study.

Data Availability Statement
The data is available upon request.

Conflicts of Interest
The authors declare no conflict of interest.

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