



THE AUTHORITY OF THE COUNCIL OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA (DPR RI) IN RATING INTERNATIONAL AGREEMENTS POST THE RULING OF THE CONSTITUTIONAL COURT (MK) NUMBER 13/PUU-16/2018

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Abstract

This research aims to find out and understand the meaning of the DPR RI's authority to ratify international agreements based on Constitutional Court Decision No. 13/PUU-16/2018 and to understand and analyze the direction of regulating the authority of the DPR RI in ratifying international agreements after Constitutional Court Decision No. 13/PUU-16/2018. This research method uses a type of normative legal research. The meaning of the DPR RI's authority to ratify international agreements based on Constitutional Court Decision No. 13/PUU-16/2018 expands the definition of DPR approval, which is not limited to the provisions of Article 10 of Law no. 24 of 2000 concerning international agreements, but in all international agreements which have the nature of having broad and fundamental consequences for people's lives related to the financial burden on the state, and requiring changes or formation of laws. The Constitutional Court's decision pertaining to the DPR's authority in ratifying international agreements, the Constitutional Court expanded the meaning of Article 10 by cancelling the Article and returning to the norms contained in article 11 of the 1945 Constitution of the Republic of Indonesia, the Constitutional Court interpreted it extensively. The direction of regulating the authority of the DPR RI in ratifying international agreements after the Constitutional Court decision no. 13/PUU-16/2018 is by changing or replacing the existing norms in article 10 of Law No. 24 of 2000 concerning International Agreements by regulating the substance of international agreements as intended in article 11 of the 1945 Constitution of the Republic of Indonesia and following the pattern of article 84 of Law no. 7 of 2014

Keywords: *Constitutional Court Decisions; DPR authority; International Agreements.*

A. INTRODUCTION

In the era of globalization, state boundaries are no longer an obstacle to various activities between countries, especially in economic, investment and trade activities.

Therefore, international agreements are a form of all legal acts in international community transactions in order to create obligations to the parties to the agreement that has been made.¹

The ratification of international treaties is regulated in the state constitution, namely, based on article 11 paragraphs (1) and (2) of the 1945 Constitution of the Republic of Indonesia which states that:

- (1) The President with the approval of the DPR declares war, makes peace, and treaties with other countries.
- (2) The President in making other international agreements that have broad and fundamental consequences for the lives of the people that are related to the burden on state finances, and/or require changes or the formation of laws must be approved by the DPR.

When interpreted systematically, the types of international agreements that require the approval of the DPR are regulated in Article 10 of Law No. 24/2000 on International Agreements which reads:²

“ ratification of international treaties is done by law if it concerns:

- a. State politics, peace, defence and security issues
- b. Territorial changes or delimitation of the territory of the Republic of Indonesia
- c. Sovereignty or sovereign rights of the state
- d. Human rights and the environment
- e. Establishment of new legal rules
- f. Foreign loans and/or grants

Meanwhile, the types outside the above criteria are carried out by presidential regulation as stated in article 11 paragraph (1) of the International Treaty Law, namely:

“ ratification of international agreements whose material is not included in the material as referred to in article 10, shall be carried out by presidential regulation”.

With the grouping of types of international agreements, it can cause problems because it is possible that from the six types of international agreements there are other agreements that require DPR approval. So that these criteria encourage the application of material claims made by several community groups to the Constitutional Court.

Here are some examples of international agreements that should be ratified by law but in practice are only ratified by presidential regulation, among others:³

1. Agreements related to Indonesia's participation as a member of the Asean Infrastructure Investment Bank which involves Indonesia's participation with foreign debt which of course has a huge impact on state finances, but in practice it is only authorized through presidential regulations.
2. The 2009 ASEAN Comprehensive Investment Agreement, which concerns comprehensive investment for ASEAN countries related to the free market, even though this international agreement has a broad impact on people's lives. But it was only ratified through a presidential regulation.

The broad scope of this international agreement requires the approval of the DPR as a form of representation of the people. In this case, the Constitutional Court has also issued a decision on case No. 13/PUU-16/2018 which states that Article 10 is contrary

¹Istanto, F. Sugeng, *Hukum Internasional*, Universitas Atma Jaya, Yogyakarta, 1994, p. 88.

²Law No. 24 Year 2000 on International Treaties, p. 5.

³Nanda Indrawati, *Praktik Ratifikasi Perjanjian Internasional Pasca Putusan Mahkamah Konstitusi Nomor 13/PUU-XVI/2018*, Law, Development and Justice Review, 3.1 (2020), p.116 – 117.

to the 1945 Constitution and has no binding legal force conditionally to the extent that it is interpreted that only the types of international agreements as mentioned in letters a - f in Article 10 of the PI Law require DPR approval so that these types of ratification are carried out by law.

However, in its decision, the Constitutional Court used an extensive interpretation, which is an interpretation that expands meaning. By revoking Article 10 of the PI Law and returning the provisions for the ratification of PIs in accordance with the constitutional mandate of Article 11 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, and not specifying the criteria for PIs that require the approval of the DPR, there is a norm vacuum, which means a vacuum regarding how to determine the criteria for PIs that require DPR approval. Therefore, this research requires problem identification to assist in the analysis process and help achieve the purposes of research.

B. METHODS

In this study the authors used normative legal research methods. Normative legal research is also known as doctrinal legal research. In this type of research, it is often conceptualized by understanding the law as what is written in laws and regulations, or the law is considered a rule or norm that becomes a reference for human behavior that is considered appropriate.⁴ In this study, researchers analyzed legal materials in this study by conducting legal interpretations to examine the legal materials obtained, so as to answer the formulation of problems in this study. In this case, article 10 of Law No. 24 of 2000 concerning International Agreements with Constitutional Court Decision No. 13/PUU - 16/2018. The author also uses the statutory approach, conceptual approach and comparative approach.

C. ANALYSIS AND DISCUSSION

1. The Meaning of the Authority of the House of Representatives of the Republic of Indonesia (DPR RI) to Ratify International Agreements Based on Constitutional Court Decision No. 13/PUU-16/2018

a. Parliament's Constitutional Authority to Ratify International Agreements

The involvement of the DPR in an international agreement can be described based on the authority possessed by the DPR as mandated in the 1945 Constitution and several other laws and regulations in the Indonesian state administration. Before the amendment, the DPR's authority was specifically regulated in Article 11 of the 1945 Constitution (NRI) before the amendment, which reads: "The President with the approval of the House of Representatives declares war, makes peace and treaties with other countries." This article then placed the DPR very weak in making legislation.

The authority of the DPR is specifically regulated in Article 11 of the 1945 Constitution (NRI) before the amendment, which reads: "The President with the approval of the House of Representatives declares war, makes peace and treaties with other countries." This article then places the DPR very weak in making legislation. The structure of legislation related to rules or regulations does not reflect the mechanism of checks and

⁴Amirudin and Zainal Asikin. Pengantar Metode Penelitian Hukum, Cet 12, PT Raja Grafindo Persada, Jakarta, 2021, p. 118.

balances as is customary in a country that uses a presidential system of government. This affects the ability of the DPR as a legislative body to carry out its functions, namely interaction with the executive represented by the President and interaction with the community.

In the regulation and practice of international agreements in Indonesia, ratification is translated as “ratification”. Article 1 point (2) of Law No. 24/2000 on International Agreements stipulates, “ratification is a legal act to bind oneself to an international agreement in the form of ratification, accession, acceptance and approval”. Based on the description of the article, it can be seen that ratification is one of the ways to ratify international agreements.⁵ In the event that the agreement must be ratified, the signing of the agreement has not created legal ties to the participants. Conversely, if there is no obligation to ratify, the agreement is considered binding after being signed. The ratification method is more often used in the practice of ratifying international agreements so that its existence is more institutionalized than other ways of ratification.

The ratification of international agreements also regulates the authority of the DPR in Article 10 of Law No. 24 of 2000 concerning International Agreements which reads: “Ratification of international agreements is carried out by law if it is related to: a. political, peace, defense and security issues of the state; b. changes in territory or determination of the boundaries of the territory of the Republic of Indonesia; c. sovereignty or sovereign rights of the state; d. human rights and the environment; e. establishment of new legal rules; f. foreign loans and / or grants.” and article 11 reads: “Ratification of international agreements whose material is not included in the material as referred to in Article 10, is carried out by presidential decree”.

In this case, the Constitutional Court (MK) has issued a decision on case No. 13/PUU-16/2018 which resulted:

- 1) Declare the petitions of Applicant III, Applicant V, Applicant VI, Applicant VII, Applicant VIII, and Applicant IX inadmissible;
- 2) Grant the petitions of Applicant I, Applicant II, Applicant IV, Applicant X, Applicant XI, Applicant XII, Applicant XIII, and Applicant XIV in part;
- 3) Stating that Article 10 of Law No. 24 of 2000 (State Gazette of the Republic of Indonesia of 2000 No. 185, Supplement to State Gazette of the Republic of Indonesia No. 4012) is contrary to the 1945 Constitution of the Republic of Indonesia and does not have conditional binding legal force insofar as it is interpreted that only the types of international agreements mentioned in letters a to f in the Article a quo require the approval of the DPR so that these types of agreements are ratified by law;
- 4) Deny the petition of the Plaintiffs for other than and the rest.

After the Constitutional Court’s decision, the criteria for international agreements that require the approval of the DPR are not only those contained in article 10 of Law No. 24 of 2000 concerning International Agreements. So it can be said that the rules regarding the ratification of international agreements return to article 11 of the 1945 Constitution which reads “The President in making other international agreements that have broad and fundamental consequences for the lives of the people related to the burden on state finances, and / or require changes or the formation of laws must

⁵J.G Starke, *Pengantar Hukum Internasional*, Sinar Grafika, Jakarta, 2004, p. 601.

be approved by the DPR.” The expansion of the criteria for international agreements that require the approval of the DPR requires a follow-up by the DPR by revising and clarifying the criteria referred to in Article 11 of the 1945 Constitution.⁶

b. Parliament’s Role in the Practice of Ratifying International Agreements.

The House of Representatives has an important role in the formation of international agreements as a representation of the sovereignty of the people, so a more detailed mechanism is needed regarding the approval of the DPR in various international agreements made by the Government. Article 11 of the 1945 Constitution, which is a reference for the formation of international agreements, is very dynamic, where the DPR’s approval is a political consideration or political approval, not a legal consideration based on closed norms.⁷

The involvement of the DPR in the making of international agreements is a form of representation of the people and a manifestation of the implementation of democratic principles that uphold participation, transparency and accountability. Law No. 24 of 2000 on International Agreements contains regulations on international agreements and regulates that ratification of international agreements is carried out through law if it is related to political, peace, defense and security issues, changes in territory or determination of the boundaries of the Republic of Indonesia, sovereignty or sovereign rights of the state, human rights and the environment, the establishment of new legal rules, foreign loans and / or grants. In accordance with Article 10 of Law No. 24 of 2000 concerning International Agreements, the criteria that require the approval of the DPR are the criteria contained in the article, outside of the criteria previously described, the ratification is carried out by Presidential decree. So that this can have an impact on legal certainty, one of which is related to interpretation if there is an international agreement that is only ratified through a Presidential decree but has a broad and fundamental impact on the economy and welfare of a country because it is considered not included in the criteria mentioned in article 10 of the International Treaty Law.

Many international trade and investment agreements are bilateral, regional and multilateral, such as: ASEAN and China Trade Agreement ratified by Presidential Decree No. 48 of 2004, and the Investment Protection Enhancement Agreement (P4M) or known as Bilateral Investment Treaty (BIT), such as the P4M between Indonesia and Singapore authorized by Presidential Decree No. 93 of 2003, including the international trade and investment agreement between Indonesia and the European Union (IEU CEPA) and the Regional Comprehensive Economic Partnership (RCCP). 93 of 2003, including international trade and investment agreements between Indonesia and the European Union (IEU CEPA) and Regional Comprehensive Economic Partnership (RCEP) and Bilateral Investment Treaty (BIT) with other countries together with the Indonesian civil society network, as well as Indonesia’s agreements with international organizations

⁶Boer Mauna, *Hukum Internasional Pengertian Peranan dan Fungsi dalam Era Dinamika Global*, Pt. Alumni, Bandung, 2015, p. 117

⁷Norman Edwin Elnizar, “Keterlibatan DPR dalam Perjanjian Internasional Diperluas, Ahli Sarankan Prosedur Lebih Rinci,” *Hukum Online*, 2019, <https://www.hukumonline.com/berita/a/keterlibatan-dpr-dalam-perjanjian-internasional-diperluas--ahli-sarankan-prosedur-lebih-rinci-1t5c2f081e81922/?page=2>.

(WTO, ASEAN, APEC, ADB, G20, etc.) that have harmed the constitutional rights of the Indonesian people.⁸

Almost all economic partnership agreements cause losses to the Indonesian people, the agreements are: First, within the scope of ASEAN, for example, the ASEAN Comprehensive Investment Agreement (ACIA) in 2009, which Indonesia ratified in 2011 with Presidential Regulation Number 49 of 2011. This agreement is about a comprehensive investment agreement for ASEAN countries related to the free market. It was ratified by Presidential Regulation not by Law, even though the international agreement has a broad and fundamental impact on people's lives related to the state's financial burden and / or requires changes or the formation of laws. Second, the international agreement named: Agreement Between The Republic of Indonesia and Japan For An Economic Partnership 2007 or commonly called the Indonesia Japan Economic Partnership (IJEPA), which was ratified through Presidential Regulation Number 36 of 2008. The agreement is an agreement between Indonesia and Japan that is structured to produce benefits for both parties in a fair, balanced, and measurable manner through liberalization of market access, facilitation, and cooperation through capacity building for priority industrial sectors. There are 11 areas covered by the IJEPA agreement, including trade in goods, arrangements related to the origin of goods and customs procedures.

c. Regulations Regarding Parliament's Approval of the Ratification of International Treaties Act

The Constitutional Court as a constitutional judicial institution, has several special characteristics that are different from the character of the general court or ordinary court. The specificity, among others, lies in the nature of the Constitutional Court's decision which is 'final' and there are no other legal remedies.⁹ The nature of the Constitutional Court's decision is different from the nature of the Supreme Court's decision, although the Supreme Court's decision is final, but legal remedies can be taken, in the form of Judicial Review (PK) for court decisions that have obtained permanent legal force and through Clemency.¹⁰ Regarding the final nature of the Constitutional Court's decision, it is also emphasized in Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that the Constitutional Court has the authority to hear constitutional cases at the first and final levels whose decisions are final.¹¹

Regarding the normative provisions regarding the authority of the Constitutional Court, it is followed by its regulation in Article 10 paragraph (1) of Law Number 4 of 2014 concerning the Stipulation of Government Regulation in lieu of Law Number 1 of 2013 concerning the Second Amendment to Law Number 24 of 2003 concerning the Constitutional Court into Law. According to the Explanation of Article 10 paragraph (1), the Constitutional Court's decision is final, that is, the decision of the Constitutional

⁸Constitutional Court Decision No. 13/PUU-XVI/2018 on the Examination of Law No. 24/2000 on International Agreements against the 1945 Constitution, p. 13

⁹Fajar Laksono Soeroso. Defiance of the Constitutional Court Decision: Review of Decision Number 153/G/2011/PTUN-JKT. Judicial Journal Volume 6. Number 3 December 2013, pp. 234

¹⁰Ibid, p. 235.

¹¹Article 24C paragraph (1) of the 1945 Constitution of the Republic of Indonesia

Court immediately obtains permanent legal force since it is pronounced and no legal remedies can be taken.¹²

The Constitutional Court issued its decision on Law No. 24 Year 2000 on Treaties which resulted in:

1. Declare the petitions of Applicant III, Applicant V, Applicant VI, Applicant VII, Applicant VIII, and Applicant IX inadmissible;
2. Grant the petitions of Applicant I, Applicant II, Applicant IV, Applicant X, Applicant XI, Applicant XII, Applicant XIII, and Applicant XIV in part;
3. Stating that Article 10 of Law No. 24 of 2000 (State Gazette of the Republic of Indonesia of 2000 No. 185, Supplement to State Gazette of the Republic of Indonesia No. 4012) is contrary to the 1945 Constitution of the Republic of Indonesia and does not have conditional binding legal force insofar as it is interpreted that only the types of international agreements mentioned in letters a to f in the Article a quo require the approval of the DPR so that these types of agreements are ratified by law;
4. Deny the petition of the Plaintiffs for other than and the rest

The presence of this form of Law on Ratification of International Agreements was born as “DPR approval” in accordance with the constitutional mandate of Article 11 of the 1945 Constitution of the Republic of Indonesia paragraph (2) stipulates that the President in making other international agreements that have broad and fundamental consequences for the lives of the people related to the burden on state finances, and / or require changes or the formation of laws must be approved by the House of Representatives. As further legislation, Law No. 24/2000 on International Agreements (hereinafter abbreviated as the International Agreements Law) was established, where Article 9 stipulates that the ratification of international agreements is carried out as long as required and set forth in the form of a Law or Presidential Decree. Furthermore, Article 10 of the International Treaties Law stipulates that ratification of international treaties is carried out by law if it concerns: a) Political, peace, defense and security issues of the state; b) Territorial changes or determination of the boundaries of the territory of the Republic of Indonesia; c) Sovereignty or sovereign rights of the state; d) Human rights and the environment; e) Formation of new legal rules; f) Foreign loans and/or grants.

The formulation of the norm in Article 10 of the International Treaties Law gives rise to the interpretation that only the international treaties mentioned in Article 10 of the International Treaties Law are classified as such treaties. Meanwhile, the developments that occur in international relations are increasingly intense, while carefully considering sufficient flexibility for the President to be able to effectively carry out his government functions, the formulation of the norms contained in Article 10 of the International Treaties Law will not be able to answer the needs and the inability to answer such needs is not just a technical-administrative issue but is directly related to the fulfillment of the Constitutional mandate.

The Constitutional Court Decision Number 13/PUU-XVI/2018 found a follow-up to the addressat of the decision. The follow-up is that there is a proposal to revise Law

¹²Article 10 paragraph (1) Law Number 4 of 2014 Concerning the Stipulation of Government Regulation in lieu of Law Number 1 of 2013 Concerning the Second Amendment to Law Number 24 of 2003 Concerning the Constitutional Court into Law.

Number 24 of 2000 concerning International Agreements which has been included in the National Legislation Program (Prolegnas). This was marked by the Conception of Amendments to Law Number 24 of 2000 on International Agreements dated February 2, 2015, one of which aims to improve the Law on International Agreements and harmonize it with other laws and the Constitutional Court's decision. The stages of the National Legislation Program begin with the drafting (Commission Proposal Bill, Harmonization, Determination of DPR Proposal) and discussion (Tk.I Talks, Tk.II Talks). The discussion stage of the Bill on Amendments to International Agreements has entered the discussion stage initiated by Commission I DPR.¹³

Strengthening the role of the DPR is realized with a clause that every international agreement made by the Government must be accompanied by notification and approval from the DPR. The scope of the arrangement can be described as follows:

1. outlines the definition of an international treaty;
2. outlines the philosophical, sociological, and juridical foundations for the formation of the Bill on the Amendment to Law Number 24 Year 2000;
3. analyze the materials of international agreements whose ratification must be approved by the DPR;
4. analyze the mechanisms for making and ratifying good international agreements so that they are in line with national interests and do not harm the regions affected by international agreements;
5. formulating the content material of the Bill on Amendments to Law Number 24 of 2000 concerning International Agreements

With the Constitutional Court Decision that has final and binding force, Law Number 24 of 2000 concerning International Agreements needs to be immediately harmonized in accordance with the Constitutional Court Decision. As the description of the conception (Government) in the Amendment Bill to Law Number 24 of 2000 concerning International Agreements which states that the target to be achieved is to perfect and harmonize with other laws and Constitutional Court Decisions related to international treaty issues.

d. State Practice in Legislative Engagement for the Approval of International Agreements

The involvement of the people, especially the DPR in the formation of international treaties can be seen in the practices of several countries in democratizing the formation of international treaties as follows:

In the United States, Congress has an important role, especially in trade agreements, where Senate approval is required. This process involves the "Trade Promotion Authority" which is authorized by Congress, providing democratic oversight through parliamentary voting and parliamentary involvement in the negotiation process. Parliamentary involvement is also one aspect of ensuring an effective negotiation process. The United States tries to ensure that the voice of industry, as well as civil society, is heard in the negotiations.¹⁴

¹³National Legislation Program. Accessed via <http://www.dpr.go.id/prolegnas/index/id/38> on December 13, 2023

¹⁴Fathul Hamdani, Ana Fauziah, and Eduard Awang Maha Putra, "Penerapan Metode RIA dalam Pembentukan Perjanjian Internasional: Upaya Optimalisasi Keterlibatan Rakyat dalam Mewujudkan Negara Kesejahteraan", Paper presented at the 5TH NATIONAL CONFERENCE on Law Studies, Fakultas Hukum Universitas Pembangunan Veteran Jakarta, 2023, p 8-9.

In Germany, the Federal Constitutional Court ensures the Bundestag's right to be informed during negotiations, ensuring effective parliamentary participation in such a way that it can weigh in on the Government's policy-making process as early as possible.¹⁵

Based on the international treaty-making practices of several countries above, it can be seen that the involvement of the DPR is not only at the time of ratification of international treaties but starting from the negotiation stage, for example in Germany, the DPR or parliament must be provided with information related to the negotiation process being carried out by the Government. Likewise, in the United States, Parliament can actually participate in the negotiation process on international agreements for certain fields.

Furthermore, a comparison with the practice of international treaty formation in Indonesia shows a very limited involvement of the DPR. In Indonesia's International Treaties Law, the DPR's involvement is only at the final stage, which is ratification. Although there is a consultation mechanism by the government, the explanation of the consultation mechanism is inadequate, and it is unclear whether it is voluntary or mandatory, as well as the role of the DPR in the consultation. Thus, it is important to set norms regarding public participation, including the DPR, to prevent the government's misinterpretation of the types of international agreements that can have a broad impact on society.

2. The direction of the regulation of the authority of the House of Representatives (DPR-RI) in ratifying international treaties after the Constitutional Court decision No. 13/PUU-16/2018

The decision of the Constitutional Court No. 13/PUU-16/2018 is related to Article 10 of the Law on International Agreements which regulates only 6 types of agreements that require DPR approval, namely:

“ratification of international agreements is done by law if it is related to:

1. Political, peace, defense and national security issues
2. Territorial change or delimitation of the territory of the NRI
3. State sovereignty or sovereign rights
4. Human rights and the environment
5. Establishment of new legal rules
6. Foreign loans and/or grants

In its decision, the Court stated that Article 10 was contrary to the 1945 Constitution of the Republic of Indonesia and did not have binding legal force conditionally to the extent that it was interpreted that the types of international agreements referred to in letters a - f in the a quo required the types of agreements whose ratification was carried out by law.

So that article 10 of the PI Law related to the criteria for international agreements can no longer apply, and return to the rules contained in article 11 paragraph (2) of the 1945 Constitution of the Republic of Indonesia which reads: “the president in making other international agreements that have broad and fundamental consequences for the lives of the people related to the burden on state finances, and or require changes or the formation of laws must be approved by the DPR.

¹⁵Ibid.

However, in its decision, the Constitutional Court used an extensive interpretation, which is an interpretation that expands meaning. By revoking Article 10 of the PI Law and returning the provisions for the ratification of PIs in accordance with the constitutional mandate of Article 11 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, and not specifying the criteria for PIs that require the approval of the DPR, there is a norm vacuum, which means a vacuum regarding how to determine the criteria for PIs that require DPR approval.

In connection with the inclusion of the bill on international agreements to amend Law No. 24 of 2000 on International Agreements, it is necessary to make changes to the norms in Article 10 of the PI Law. Based on the national legislation program, Law No.24 of 2000 is one of the laws that are amended. One of these changes is to follow up on the Constitutional Court's decision regarding the criteria for agreements that require DPR approval.

In this regard, the regulation of article 10 can follow the pattern of ratification of international agreements in the field of trade in article 84 of Law No.7 of 2014 concerning trade which reads:¹⁶

- (1) Every international agreement as referred to in Article 82 paragraph (2) shall be submitted to the House of Representatives no later than 90 (ninety) working days after the signing of the agreement.
- (2) International agreements submitted by the Government as referred to in paragraph (1) shall be discussed by the House of Representatives to decide whether or not the approval of the House of Representatives is required.
- (3) The decision whether or not the approval of the House of Representatives is required for the international agreement submitted by the Government as referred to in paragraph (2) shall be made at the latest 60 (sixty) working days during the session period with the following provisions:
 - a. In the event that an international agreement has broad and fundamental consequences for the lives of the people which are related to the financial burden of the state and/or requires the amendment or establishment of laws, its ratification is carried out by law.
 - b. In the event that the international agreement does not cause the impact as referred to in letter a, its ratification shall be carried out by Presidential Regulation.
- (4) If the House of Representatives does not make a decision within a maximum period of 60 (sixty) working days during the session as referred to in paragraph (3), the Government may decide whether or not the approval of the House of Representatives is required.
- (5) The House of Representatives shall give approval or rejection to the international treaty as referred to in paragraph (3) letter a at the latest 1 (one) time of the next session.
- (6) In the event that an international agreement may jeopardize national interests, the House of Representatives may refuse approval of the international Trade agreement.
- (7) Presidential Regulation regarding ratification of international treaties as referred to in paragraph (3) letter b shall be notified to the House of Representatives.

¹⁶Article 83 Law No. 7/2014 on Trade

Article 84 paragraph (3) above allows international trade agreements to be ratified in the form of laws or presidential regulations. The presence of the Trade Law also shows the specificity of international trade agreements compared to other international agreements because the basis for the provisions of this agreement is not only limited to being regulated in the Law on International Agreements, but more specifically in the Trade Law.

As described above, international trade agreements have a special character compared to other types of international agreements, so with regard to the ratification of international trade agreements, Indonesia also regulates them more specifically than international agreements in general. In addition to being regulated in the International Treaties Act, the regulation of international trade agreements is also contained in the Trade Act. Although there are more specific arrangements regarding international trade agreements, there is still uncertainty regarding the form of instruments for ratification of international trade agreements in the Indonesian legal system, which in this case are more ratified through Presidential Regulations than laws.

Determination of the use of the same statutory provisions between the international treaty law and the trade law can be used the principle of *lex specialis derogat lex generalis* by comparing the content material between the two shrimps - the law.

If you look at the content of the provisions in the international treaty law, it can be observed that these provisions are provisions that “regulate international treaties in general” coupled with the Constitutional Court’s decision to expand the category of international treaties that require the approval of the DPR, making an expansion in the ratification of international treaties.

So it can be said that there is a legal vacuum because the Constitutional Court does not provide an explanation related to the criteria that cause broad and fundamental consequences for the lives of the people related to the burden on state finances, and / or require changes or the formation of laws. Therefore, when Law No. 24 of 2000 becomes *Lex Generalis* and even Law No. 7 of 2014 on Trade becomes *Lex Specialist*, the Law on International Agreements must be able to translate these criteria.

D. CONCLUSION

From the discussion in the previous chapter IV, the author concludes that the meaning of the DPR RI’s authority to ratify international agreements based on Constitutional Court Decision No. 13 / PUU-16 / 2018 by expanding the meaning of ratification that requires DPR approval and is not limited to the provisions of Article 10 of Law No. 24 of 2000 concerning International Agreements, but on all international agreements that have the nature to cause broad and fundamental consequences for the lives of the people related to the burden on state finances, and / or require changes or the formation of laws.

The Constitutional Court interpreted extensively in the Decision relating to the authority of the DPR in ratifying international agreements, the Constitutional Court expanded the meaning in article 10 by canceling the article, and returned to the norm contained in article 11 of the 1945 Constitution. In relation to the direction of regulating the authority of the DPR RI in ratifying international agreements after the decision of

the Constitutional Court No. 13 / PUU-16 / 2018 is to change or replace the existing norm in article 10 of Law No. 24 of 2000 concerning International Agreements by regulating the substance of international agreements as referred to in article 11 of the 1945 Constitution and following the pattern of article 84 of Law No. 7 of 2014.

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