



## Legal basis for executing court decisions industrial relations based on agreements

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### Abstract

This study is intended to examine and explain the implementation of the verdict execution of the Industrial Relations Court at the Banda Aceh District Court Number: 1393 K/Pdt.Sus-PHI/2020 based on an agreement and the legal basis for executing decisions based on an agreement. The method used in this study is normative juridical with a statutory approach and a case approach. The data collection techniques were obtained from interviews, observation and documentation using primary and secondary data sources. The data obtained will be analyzed using descriptive analytical methods. The results show that the implementation of the agreement carried out by the party requesting the execution with the respondent executed was based on the agreement of the parties so that the agreement was stated in the minutes of the execution. So that the agreement set aside a decision that has permanent legal force. Where in the decision that has been *inkracht van gewijsde* the nominal that must be paid by the executed party is IDR. 4,112,410,431.00 (four billion one hundred and twelve million four hundred ten thousand four hundred and thirty one rupiah), but the respondent and the petitioner for execution agrees that the amount to be paid is IDR 3,500,000,000.00 (three billion five hundred million rupiah) with three stages of payment. The implementation of the execution of the decision based on the mutual agreement of the parties is carried out as stated in the minutes of the execution of the decision of the Industrial Relations Court at the Banda Aceh District Court and the legal basis used in executing the decision based on an agreement is the implementation of the decision voluntarily based on Article 196 HIR and Article 207 RBg execution can be done voluntarily. Because of this, it is advisable for the litigants to be more open in terms of conciliation from the beginning of the case process so that they do not have to undergo an examination process in court which takes up the time of the litigants.

**Keywords:** implementation of execution, decision, industrial relations court, agreement

### Introduction

Decisions or commonly referred to as verdicts are court products, due to the existence of two conflicting parties, namely the plaintiff and the defendant or the judge's statement uttered at a court hearing that is open to the public for the purpose of resolving or ending civil cases (Fauzie Yusuf Hasibuan, 2007, p. 82).

Decisions on industrial relations disputes that have permanent legal force (*inkracht van gewijsde*) are binding and coercive. Binding can be interpreted that a decision must be obeyed and also implemented. While coercive means that the decision can be carried out by force if the party being punished does not carry it out voluntarily. (Rustan Sinaga, 2018, p. 370.)

Execution is the official implementation of a court decision under the leadership of the Head of the District Court. That the execution must be officially ordered by the head of the competent District Court as the implementation of a court decision that has permanent legal force, or a decision that is declared to be executed immediately even though there is no decision that has permanent legal force (Ugo and Pujiyo, 2012, pp. 184-185).

The implementation of the decision can be divided into two ways based on Article 196 HIR and Article 207 RBg namely:

- a. Voluntarily
- b. Forced (executed) (Djamanat Samosir, pp. 325-326)

As for that the execution consists of several principles, namely:

1. The judge's decision to be executed must be a judge's decision that has permanent legal force (*inkracht van gewijsde*).
2. The judge's decision to be executed must be *condemnatoir*.
3. Decisions are not implemented voluntarily.
4. The authority to execute is only at the court of first instance (Article 195 paragraph (1) HIR or Article 206 paragraph (1) RBg).
5. The execution must be in accordance with the verdict (Neng Yani Nurhayani, 2020, pp. 238-242).

Execution arrangements for paying a sum of money are regulated in Article 197 HIR or Article 208 RBg. According to the provisions, carry out the execution to pay an amount of money which is carried out through an auction of the goods belonging to the losing party until a sufficient amount of money to be paid is in accordance with the contents of the judge's decision plus the costs of expenses for carrying out the execution. The achievement that is required is to pay a certain amount of money (Djamanat Samosir, 2011, p. 339.)

In one of the cases a request for execution was submitted by the worker as the plaintiff/applicant for the execution represented by the Aceh FSPMI workers' union to the Head of the Banda Aceh District Court for execution in accordance with the verdict Number: 2/Pdt.Sus-PHI/2020/PN Bna jo. Number: 1393 K/Pdt.Sus-PHI/2020 which has permanent legal force (*inkracht van gewijsde*).

So that in the first level decision Number 2/Pdt.Sus-PHI/2020/PN.BNA it was decided by the Industrial Relations Court at the Banda Aceh District Court that DS Inc. to workers in the amount of IDR 7,553,177,901.00 (PHI Decision Number 2/Pdt.Sus-PHI/2020/PNBNA on point 34 p. 51).

After the issuance of the decision then the DS Inc. filed a cassation to the Supreme Court. So that the results of the cassation decision from the Supreme Court reduced the amount as decided by the court of first instance to IDR 4,112,410,431.00 (Cassation decision at the Supreme Court with Number 1393 K/Pdt.Sus-PHI/2020).

According to civil procedural law originating from HIR, RBg, and Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes, such decisions can be executed because they are condemnatory or punishing.

In the implementation of the execution of industrial relations dispute case decisions carried out by the Industrial Relations Court at the Banda Aceh District Court, the workers represented by the Aceh FSPMI workers union with DS Inc. made another agreement to carry out the execution of the decision. In the execution process, DS Inc. bids IDR. 3,500,000,000.00 (three billion five hundred million rupiah) with three stages of payment to the workers, the stages are:

- a. Phase I payment on May 30, 2022 in the amount of IDR 1,500,000,000.00 (one billion five hundred million rupiah).
- b. Phase II of payment on July 30, 2022 in the amount of IDR 1,000,000,000.00 (one billion rupiah).
- c. Phase III payment on September 30, 2022 in the amount of IDR 1,000,000,000.00 (one billion rupiah).

Of the three stages of payment that have been fulfilled, namely the first stage of payment. This is stated in the minutes of partial fulfillment of the Industrial Relations Court decision Number 1393 K/Pdt.Sus-PHI/2020. (FSPMI Aceh interview and Minutes of Partial Fulfillment of the PHI Rules).

Based on this description, the implementation of the decision based on an agreement in the execution process at the Industrial Relations Court overrides the court decision which has permanent legal force. In this study, researchers will discuss the implementation of the execution of decisions based on mutual agreement of the parties carried out as stated in the minutes of execution of decisions of the Industrial Relations Court at the Banda Aceh District Court and the legal basis for executing decisions based on this agreement is based on the existence of a settlement regulated in Article 1851 of the Civil Code.

### Research Method

The method used in this study is normative juridical with a statutory approach and a case approach. Normative juridical research (normative law) or also called library law research is a legal research method that is carried out by examining literature or secondary data. (Soerjono Soekanto and Sri Mamudji, 2007, pp. 13-14). This approach refers to legal norms contained in laws and regulations and court decisions as well as legal norms contained in society. (Zainuddin Ali, 2014, p., 105). the approach is taken by first examining the principles and laws and regulations that are relevant to the problem under study by studying the law from a normative aspect (Soerjono Soekanto 2008, p. 11) related to the Implementation of the Execution of Industrial Relations

Court Decisions at the Banda Aceh District Court By Agreement. The case approach is an approach that can be taken, namely by conducting a study of cases or cases related to what problems are faced and have become court decisions that have permanent legal force. (Syamsudin, 2007, p. 58). This study uses the theory of legal certainty.

### Results and Discussion

#### The implementation of Industrial Relations Court Decision Execution

Execution is a legal action that can be taken by a court against a party that loses a case. So that execution is the rules and procedures that continue the process of examining a case. Execution is an integral part of the procedural rules contained in the HIR and RBg. Therefore, in terms of implementing the judge's decision, it is regulated in the fifth part, such as Article 195 HIR to Article 224 RBg/S. 1941 No. 44 which applies to Java and Madura as well as the fourth part of Article 206 RBg to Article 258 RBg./S. 1927 No 227 outside Java and Madura. (Neng Yani Nurhayani, 2020 p. 234)

The implementation of the judge's decision which has permanent legal force, the authority to carry out the execution is at the Head of the District Court. If the defendant or the losing party so that he becomes the defendant does not carry out the decision voluntarily, then based on his authority on the party seeking execution the Head of the District Court is obliged to warn (*aanmaning*) or give a warning to the executed party so that the executed party wants to obey and implement the decision that has been enforced permanent law as stated in Article 196 HIR or Article 209 RBg, which has determined that:

1. If the losing party is reluctant or negligent to voluntarily carry out the contents of the decision, then the party that has been declared victorious submits an application orally or in writing to the Chief Justice of the District Court as referred to in paragraph 1 of the previous article so that the decision can be carried out.
2. The chairperson shall order the losing party to come and appear before him and give a warning so that within the grace period he has determined, it shall be a maximum of 8 (eight) days to carry out the decision.

The submission of a request for execution is carried out by the petitioner for execution against the Head of the District Court who has decided on the case and has permanent legal force. Then the Chairperson of the District Court summoned the defendant for execution to be warned and to convey the time period given to the respondent to voluntarily hand over the object in dispute in accordance with what has been stated in the verdict that has been handed down by the Panel of Judges.

The enactment of Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes as procedural law in the settlement of industrial relations cases. So that decisions of the Industrial Relations Court which already have permanent legal force, have the same position and legal force as decisions in civil cases in general, namely having the power of execution or executorial power.

According to Wildan Suyuthi in his book entitled Sita and Execution, the principles of execution are as follows: (Wildan Suyuthi, 2004, p. 64, Elfrida R. Gultom, 2020, p. 107, Neng Yani Nurhayani, 2021, p. 238).

1. The judge's decision to be executed must have permanent legal force (*inkracht van gewijsde*);

2. The judge's decision to be executed must be *condemnatoir*;
3. The judge's decision was not implemented voluntarily;
4. The authority to execute is only at the court of first instance;
5. Execution must be in accordance with the verdict.

A decision that has become permanent is a decision according to statutory provisions no longer has the opportunity to take ordinary legal action against the decision. So that the decision can no longer be contested. In decisions that have become permanent decisions, there are several types of powers, namely as follows: (Neng Yani Nurhayani, 2021, p. 228).

1. Power of binding
2. Power of evidence
3. Power to implement
4. Carry out the contents of the decision
  - a. Voluntarily
  - b. Carry out the decision by execution
5. Decisions that can be executed are *condemnatoir*

Judgments or dictums based on their nature can be divided into three types, namely as follows: (R. Subekti, Civil Procedure Code, p. 127)

- a. Decisions are *condemnator* in nature, i.e. those whose verdict states "punish and so on...";
- b. Decisions are declaratory in nature, namely those whose decisions state "a situation as a legal condition according to law...";
- c. Decisions that are constitutive, namely those whose decisions create a new situation.

### **Implementation of Industrial Relations Court Decision Number: 1393 K/Pdt.Sus-PHI/2020**

1. Overview of the Industrial Relations Court Decision Number: 1393 K/Pdt.Sus-PHI/2020

In the case of an industrial relations dispute that occurred between 53 (fifty three) workers and DS Inc. Province of Aceh, Indonesia. Initially the problem between workers and DS INC. is in terms of the inconsistent payment of salaries by DS Inc. to employees for more than 3 (three) consecutive months. Therefore, the workers represented by the Aceh Region FSPMI workers union sued DS Inc. to the Industrial Relations Court at the Banda Aceh District Court. Where in the lawsuit the workers demand their rights that have not been paid by DS Inc.

The case submitted by the employee as the plaintiff/applicant for execution represented by the Aceh Regional FSPMI workers union to the Head of the Banda Aceh District Court for execution is in accordance with the verdict Number: 2/Pdt.Sus-PHI/2020/PN Bna jo. Number: 1393 K/Pdt.Sus-PHI/2020 which has permanent legal force (*inkracht van gewijsde*).

In the first level decision issued by the Industrial Relations Court at the Banda Aceh District Court, in decision Number 2/Pdt.Sus-PHI/2020/PN.BNA it was decided by the Industrial Relations Court at the Banda Aceh District Court that the amount of wages to be paid by DS Inc. to workers in the amount of IDR 7,553,177,901.00. (PHI Decision No. 2/Pdt.Sus-PHI/2020/PN.BNA pp. 115-120).

After the decision was issued by the Industrial Relations Court at the Banda Aceh District Court, DS Inc. filed a cassation to the Supreme Court. The cassation decision issued by the Supreme Court was to reduce the amount as

decided by the court of first instance, namely the Industrial Relations Court at the Banda Aceh District Court in the amount of IDR 7,553,177,901.00 to IDR 4,112,410,431.00 which must be paid by DS INC. to workers. (Decision of Cassation Supreme Court of the Republic of Indonesia No. 1393 K/Pdt.Sus-PHI/2020. pp. 21-23).

2. Implementation of Industrial Relations Court Decision Number: 1393 K/Pdt.Sus PHI/2020

Based on the application for execution filed by the FSPMI Workers' Union to the Industrial Relations Court at the Banda Aceh District Court on March 2, 2021. (SIPP Website of the Banda Aceh District Court 2022).

Then the court issued a stipulation of an execution warning on March 10, 2021. After the issuance of a stipulation of a warning, the issuance of a stipulation of an execution warning, namely number 4/Pdt.Sus-PHI.Eks/2021/PN.BNA. Next is the implementation of an execution warning or commonly known as *aanmaning* on March 31, 2021.

In carrying out the execution warning (*aanmaning*) the panel of judges summoned the party the respondent executed in this case DS Inc. to implement the cassation decision Number 1393 K/Pdt.Sus-PHI/2020. However, after being given 8 (eight) days, the party the respondent for execution did not carry out the cassation decision.

Then the FSPMI labor union filed an execution seizure against DS Inc. However, when announcing the execution confiscation in the field or company location, DS Inc. cannot be confiscated for execution due to reasons from the court that the conditions for confiscation of execution have not been fulfilled.

During the execution of the decision by the Industrial Relations Court at the Banda Aceh District Court, DS Inc. conduct negotiations with the workers represented by the Aceh Regional FSPMI to reach an agreement in carrying out the execution of the decision. The offer submitted by DS Inc. namely IDR 3,500,000,000.00 with three stages of payment, namely: (interview with Aceh FSPMI management)

- a. Phase I payment on May 30, 2022 in the amount of IDR 1,500,000,000.00.
- b. Phase II of payment on July 30, 2022 in the amount of IDR 1,000,000,000.00.
- c. Phase III payment on September 30, 2022 amounting to IDR 1,000,000,000.00.

Of the three stages of payment that have been fulfilled, namely the payment of the first stage which is contained in the Minutes of Partial Fulfillment of the Rules of the Industrial Relations Court Decision Number 2/Pdt.Sus-PHI/2020/PN Bna jo. Number 1393 K/Pdt.Sus-PHI/2020 dated 30 May 2022. Then payment for the second stage via Bank Syariah Indonesia transfer on 30 August 2022 from DS Inc. to the Aceh FSPMI DPW account. (interview with Aceh FSPMI officials)

So that the consideration of the workers represented by the Aceh Region FSPMI wants to accept payments that are different from the verdict is because of good faith and attention to human values and justice on the part of the workers because DS Inc. is only able to make payments of IDR 3,500,000,000.00 with three stages of payment.

### **Legal Basis for Executing Decisions Based on an Agreement**

As for the legal basis for the implementation of an agreement on execution outside the court's decision is the

implementation of the decision voluntarily. Voluntary implementation of the decision is justified in the rule that the parties can carry out the decision voluntarily. Implementation can be done directly or made an agreement in advance. The voluntarism of the parties is stated in written form, which is contained in the Minutes of Partial Fulfillment of the Court Decision Rules. Based on Article 196 HIR and Article 207 RBg execution can be carried out voluntarily. The words of Article 196 HIR and Article 207 RBg are as follows:

#### Article 196 HIR

If the defeated party does not want or is negligent in complying with the contents of the decision peacefully, then the winning party submits a request, either orally or by letter, to the chairman, the district court referred to in the first paragraph of Article 195, to carry out the decision, summons the party that was defeated and warns, so that he fulfills the decision within the time determined by the chairman, which is a maximum of eight days.

#### Article 207 RBg

In case of reluctance or negligence of the losing party to carry out the decision voluntarily, the winning party may verbally or in writing submit a request for the implementation of the decision in question.

The chairperson or the attorney who is authorized to order the summons of the losing party and warn him so that he within the time specified, not exceeding eight days, carry out the decision in question.

The agreement made in the minutes of the case in this case is a form of volunteering of the parties which is stated in written form to carry out the contents of the decision, even though the fulfillment of the contents of the decision has a different value from the agreement. The agreement applies as law to both parties (*Pacta Sunt Servanda Principle*). This is regulated in Article 1338 paragraph (1) of the Civil Code, namely "All contracts made legally apply as laws to those who make them". The implementation must be based on the good faith of both parties. This matter is regulated in Article 1338 paragraph (3) "The contract must be (executed) in good faith".

In line with what was conveyed by the ad hoc judge at the Industrial Relations Court at the Banda Aceh District Court where he stated that "If there is an agreement of the parties at the time of the execution then this can then be categorized as good faith or awareness of the parties to carry out a decision based on the rules governed in voluntary execution. Where the implementation of a decision based on an agreement is carried out voluntarily, it can override the court's decision. This can be stated in the form of an agreement and included in the Minutes of Execution" (Interview with the Court of Justice at the District Court of Banda Aceh)

This resulted in the parties having agreed to carry out the points of the agreement that had been stated in the agreement, the agreement became law for both parties to the agreement. If the agreement is not complied with, legal steps or legal remedies can be taken next, namely filing a debt claim to a general civil court.

#### Conclusion

Whereas the implementation of the agreement made by the party requesting the execution with the party being executed

was based on the agreement of the parties so that the agreement was stated in the minutes of the execution. So that the agreement set aside a decision that has permanent legal force. Where in the decision that has been *inkracht van gewijsde* the nominal that must be paid by the executed party is IDR. 4,112,410,431.00, but the respondent and the executor agree on the amount that must be paid, namely IDR. 3,500,000,000.00 with three stages payment.

The implementation of the execution of the decision based on the mutual agreement of the parties is carried out as stated in the minutes of the execution of the decision of the Industrial Relations Court at the Banda Aceh District Court. In executing the decision by the Industrial Relations Court at the Banda Aceh District Court, the DS Inc. and the workers represented by the Aceh Regional FSPMI agreed to carry out voluntary execution of the decision in the amount of IDR. 3,500,000,000.00 with three stages of payment.

The legal basis for executing an agreement on execution outside a court decision is voluntary implementation of the decision. Voluntary implementation of the decision is justified in the rule that the parties can carry out the decision voluntarily. Implementation can be done directly or made an agreement in advance. The voluntarism of the parties is stated in written form, which is contained in the Minutes of Partial Fulfillment of the Court Decision Rules. Based on Article 196 HIR and Article 207 RBg execution can be carried out voluntarily. Even though the fulfillment of the contents of the decision has a different value from the agreement. The agreement applies as law to both parties (*Pacta Sunt Servanda Principle*). This is regulated in Article 1338 paragraph (1) of the Civil Code and its implementation must be based on the good faith of both parties (Article 1338 paragraph (3)).

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