

Navigating the Legal Landscape of Autonomous Rail Transit (ART) in Indonesia's New Capital City (IKN)

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Indonesia's ambitious plans for the new capital city, Ibu Kota Nusantara (IKN), include an innovative transportation solution: the Autonomous Rail Transit (ART) system. Set to revolutionize urban mobility, the ART promises to provide a clean, efficient, and sustainable mode of transport, fully powered by renewable energy. With advanced technologies such as artificial intelligence, smart sensors, and lidar (light detection and ranging), the ART will operate on dedicated lanes, reducing interactions with conventional vehicles and ensuring safety and punctuality. However, while the ART system is a significant leap forward for the country's infrastructure, there are several legal and regulatory challenges that must be addressed to ensure its smooth integration into the transportation network.

Regulatory Framework: A Work in Progress

Currently, there is no specific regulation governing the ART in Indonesia. The Ministry of Transportation, in collaboration with academic institutions like Bandung Institute of Technology and the University of Indonesia, along with key government agencies, is actively working to draft comprehensive regulations. These will cover operational standards, safety requirements, and the integration of ART with existing transport infrastructure, addressing a gap that exists due to the system's novelty and complexity.

Government Incentives to Support ART Adoption

To facilitate the adoption of ART, the government has outlined several incentives:

1. **Buy the Service (BTS) Scheme:** Through this scheme, the government plans to purchase ART services from operators, subsidizing operational costs and ensuring affordable fares for passengers. This initiative, aimed at increasing public transport usage, faces challenges as the current BTS regulations mainly apply to traditional passenger cars and buses, potentially excluding ART from eligibility due to its unique design.

2. **Battery-Based Electric Motor Vehicle (KBL) Incentives:** As a Battery-Based Electric Motor Vehicle, the ART qualifies for various fiscal and non-fiscal incentives, including tax exemptions, subsidies for electric vehicle charging infrastructure, and research and development support. These measures provide essential financial backing to ART operators, encouraging the shift towards green transportation solutions.

Navigating the Import Process for ART Vehicles

The ART system is being developed with international collaboration, particularly with companies from China, South Korea, and Europe. For the trial phase, the ART vehicles imported from China benefit from the Temporary Admission Carnet (ATA Carnet) system, which allows temporary importation without incurring import duties and taxes, provided the vehicles are re-exported within a set period. This temporary import system provides flexibility during the trial phase, allowing the government to assess the technology before committing to permanent import status.

ART Operators: Legal Structure and Foreign Participation

While there is no explicit regulation on ART operators, existing laws governing public transportation companies provide some insight. According to Indonesia's Minister of Transportation Regulation No. 9/2020, public transportation services must be provided by legal entities that meet specific service standards. However, there remains uncertainty about whether foreign companies can operate ART services in IKN, as regulations primarily focus on Indonesian legal entities. The role of foreign companies providing vehicles and technology in this context is also unclear, presenting challenges that must be resolved to facilitate smooth collaboration between government bodies and private partners.

A New Classification for ART

Under Indonesian law, the ART system does not clearly fall into existing transportation categories. While it uses rubber tires on tracks with road markings, it does not meet the criteria for either trains or articulated buses. As such, the government will need to introduce a new classification that accurately reflects ART's hybrid characteristics—an essential step for its legal recognition and integration into the nation's transport network.

Beyond IKN: Expanding ART to Other Regions

While ART is initially planned for IKN, its potential for expansion to other regions, such as Bogor, Bali, and Surabaya, is already being explored. The success of ART in IKN could set the stage for broader adoption across the country, further cementing Indonesia's commitment to sustainable urban mobility.

Conclusion

In conclusion, Indonesia's legal framework for the ART system is still evolving, with several key areas under development. The government is working on regulations that will address the operational and legal aspects of ART, including safety standards, importation procedures, and the legal structure for operators. In the meantime, incentives such as the Buy the Service (BTS) scheme and Battery-Based Electric Motor Vehicle (KBL) benefits will support the ART's adoption, while temporary import provisions ensure that international collaboration can continue during the trial phase. However, significant legal challenges remain, particularly regarding the classification of ART and the eligibility of foreign companies to operate ART services in Indonesia. As these issues are resolved, the ART system is poised to play a transformative role in Indonesia's transportation future, not just in IKN, but in cities across the nation.

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The article above was prepared by Dentons HPRP's lawyers

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