

**PEMBATALAN PUTUSAN HOMOLOGASI PENUNDAAN KEWAJIBAN  
PEMBAYARAN UTANG OLEH MAHKAMAH AGUNG DIKAITKAN  
DENGAN PELINDUNGAN HUKUM TERHADAP KREDITOR  
(STUDI PUTUSAN NOMOR 647 K/PDT.SUS-PAILIT/2021)**

**INTISARI**

**Oleh :**

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Penelitian ini memiliki maksud untuk menjabarkan dan menganalisis pertimbangan hukum Kasasi yang membatalkan Putusan Homologasi PKPU Nomor 389/Pdt.Sus-PKPU/2020/PN-Niaga.Jkt.Pst. dan untuk menjelaskan dan menganalisis kreditor yang tidak memperoleh perlindungan hukum pasca pembatalan Putusan Homologasi oleh Mahkamah Agung.

Penelitian ini merupakan jenis penelitian hukum normatif, dengan menggunakan pendekatan peraturan perundang-undangan (*statue approach*), pendekatan konseptual (*conceptual approach*), dan pendekatan kasus (*case approach*). Data dikumpulkan dengan cara studi kepustakaan dengan alat studi dokumen dan analisis data penelitian dilakukan secara kualitatif.

Hasil penelitian dan pembahasan menunjukkan bahwa alasan pembatalan Putusan PKPU dan Putusan Homologasi *in casu* dilatarbelakangi oleh beberapa pertimbangan hukum Mahkamah Agung. Termohon Kasasi juga dapat melakukan upaya hukum agar memperoleh perlindungan hukum. Atas penelitian diperoleh dua kesimpulan yaitu yang pertama, dasar Pertimbangan Mahkamah Agung dalam membatalkan Putusan Homologasi PKPU Nomor 389/Pdt.Sus-PKPU/2020/Pn-Niaga.Jkt.Pst. yaitu berlandaskan pada ketentuan Pasal 223 *jo* Pasal 2 ayat (5) Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan PKPU (UUK PKPU) *jo* Undang-Undang Nomor 21 Tahun 2011 tentang Otoritas Jasa Keuangan *jo* Pasal 50 ayat (1) Undang-Undang Nomor 40 tahun 2014 tentang Perasuransian, bahwa pihak yang memiliki wewenang untuk mengajukan permohonan PKPU perusahaan asuransi bukan dari kreditor dan debitor melainkan dari satu lembaga yaitu Otoritas Jasa Keuangan (OJK). Kesimpulan yang kedua, Pelindungan Hukum Bagi Kreditor yang telah Tunduk Terhadap Putusan Homologasi yang Dibatalkan Mahkamah Agung dapat melakukan upaya hukum berupa Peninjauan Kembali (PK) berdasarkan Pasal 14 Ayat (1) Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang yang berbunyi: “Terhadap putusan atas permohonan pernyataan pailit yang telah memperoleh kekuatan hukum tetap, dapat diajukan peninjauan kembali ke Mahkamah Agung”.

**Kata Kunci: Penundaan Kewajiban Pembayaran Utang, Homologasi, dan Pelindungan Hukum.**

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**CANCELLATION OF HOMOLOGATION DECISION ON  
POSTPONEMENT OF DEBT PAYMENT OBLIGATIONS BY THE  
SUPREME COURT IS ASSOCIATED WITH LEGAL PROTECTION OF  
CREDITORS (STUDY OF DECISION NUMBER 647 K/PDT.SUS-  
BANKRUPTCY/2021)**

**ABSTRACT**

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This study aims to explain and analyze the legal considerations of the Cassation that canceled the Delay of Payments Homologation Decision Number 389/Pdt.Sus-PKPU/2020/PN-Niaga.Jkt.Pst. and to explain and analyze creditors who did not receive legal protection after the cancellation of the Homologation Decision by the Supreme Court.

This research is a type of Normative Law research, using a statutory, conceptual, and case approach. Data was collected by literature study with document study tools and research data analysis was carried out qualitatively.

The results of the research and discussion show that the reason for the cancellation of the Delay of Payments Decision and in casu Homologation Decision is motivated by several legal considerations of the Supreme Court. The Respondent for Cassation can also take legal action to obtain legal protection. Based on the research, two conclusions were obtained, namely first, the basis for the Supreme Court's considerations in canceling the Delay of Payments Homologation Decision Number 389/Pdt.Sus-PKPU/2020/Pn-Niaga.Jkt.Pst. namely based on the provisions of Article 223 in conjunction with Article 2 paragraph (5) of Law Number 37 of 2004 concerning Bankruptcy and Delay of Payments in conjunction with Law Number 21 of 2011 concerning the Financial Services Authority in conjunction with Article 50 paragraph (1) of the Law Number 40 of 2014 concerning Insurance, that parties who have legal standing to apply for Delay of Payments against insurance companies are not given to creditors or debtors but are given only to one institution, namely the Financial Services Authority (OJK). The second conclusion is that legal protection for creditors who have submitted to the cancellation of the homologation decision by the Supreme Court can take legal action in the form of judicial review (PK) based on Article 14 paragraph (1) of Law Number 37 of 2004 concerning Bankruptcy and Delay of Payment which reads: "Regarding the decision on the application for a declaration of bankruptcy which has obtained permanent legal force, a review may be submitted to the Supreme Court".

**Keywords: Postponement of Debt Payment Obligation, Homologation, and Legal Protection.**

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