

## INTISARI

### **KEKUATAN PUTUSAN PKPU PASCA PUTUSAN MK NOMOR 23/PUU-XIX/2021 TENTANG DIPERBOLEHKANNYA UPAYA HUKUM KASASI TERHADAP PUTUSAN PKPU**

Muhammad Irsyad Faqih Adnan<sup>1</sup> dan Herliana<sup>2</sup>

Penelitian ini bertujuan untuk mengetahui dan menganalisis *legal reasoning* Putusan MK Nomor 23/PUU-XIX/2021 tentang diperbolehkannya upaya hukum kasasi terhadap putusan PKPU ditinjau berdasarkan amanat dan tujuan lahirnya UU K-PKPU dan mengetahui dan menganalisis akibat upaya hukum kasasi terhadap putusan PKPU ditinjau dari asas peradilan sederhana, cepat, dan biaya ringan dan asas kepastian hukum.

Metode penelitian yang digunakan adalah penelitian hukum normatif dan bersifat penelitian hukum deskriptif. Data yang digunakan adalah data sekunder, terdiri dari: bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier. Teknik pengumpulan data dilakukan menggunakan data pustaka dengan ditunjang wawancara dengan narasumber.

Kesimpulan dari penelitian hukum ini adalah *legal reasoning* Putusan MK Nomor 23/PUU-XIX/2021 dilandaskan pada pertimbangan permohonan PKPU yang diajukan oleh kreditor dan tawaran perdamaian yang diajukan oleh debitor ditolak oleh kreditor, dapat berpotensi adanya keberpihakan, atau setidaknya adanya kesalahan penerapan hukum oleh hakim. Menunjuk pada amanat dan tujuan lahirnya UU K-PKPU adalah untuk menyelesaikan masalah utang-piutang secara adil, cepat, terbuka, dan efisien, sehingga Putusan MK Nomor 23/PUU-XIX/2021 semakin menjauhkan karakteristik *speedy trial*. Lahirnya SEMA 1 Tahun 2022 juga senyatanya tidak dapat mengisi kekosongan hukum akibat adanya Putusan MK Nomor 23/PUU-XIX/2021. Akibat hukum terhadap putusan PKPU ditinjau dari asas peradilan sederhana, cepat, dan biaya ringan membuat penyelesaian masalah utang-piutang melalui mekanisme PKPU menjadi lambat. Akibatnya bagi debitor membuat usaha milik debitor mengalami kemunduran, bagi kreditor kepastian hukum atas tuntutan utangnya agar segera dibayar tertunda.

**Kata Kunci:** *Legal Reasoning*, PKPU, Putusan MK, *Speedy Trial*, Kepastian Hukum

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## **ABSTRACT**

### **THE BINDING FORCE OF PKPU DECISIONS POST-CONSTITUTIONAL COURT DECISION NUMBER 23/PUU-XIX/2021 REGARDING THE ALLOWANCE OF CASSATION APPEALS AGAINST PKPU DECISIONS**

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*This research aims to find out and analyze the legal reasoning for Constitutional Court Decision Number 23/PUU-XIX/2021 about permissibility of cassation against Suspension of Debt Obligation's decision reviewed by directions and purpose of Suspension of Debt Obligation and Bankruptcy Act and to find out and analyze consequence of law against Suspension of Debt Obligation reviewed by simple, fast, and affordable principle and legal certainly principle.*

*This is normative and descriptive legal research. The legal research material consists of secondary data, which consists of primary, secondary, and tertiary legal material. Data collection techniques were used using library data supported by interviews with resource persons.*

*This concludes the legal reasoning Constitutional Court decision Number 23/PUU-XIX/2021 is based on consideration of the suspension of debt obligations application submitted by the creditor, and the creditor rejected reconciliation plan by the debtor can make potentially biased or at least an error in law enforcement by judges. However, the directions and purpose of the Suspension of Debt Obligation and Bankruptcy Act are to resolve debt and receivable problems fairly, quickly, openly, and efficiently. Hence, the Constitutional Court decision Number 23/PUU-XIX/2021 increasingly deters from the speedy trial characteristic. The emergence of Supreme Court Circular Letter Number 1 2022 was unable to fill the legal vacuum resulting from Constitutional Court decision Number 23/PUU-XIX/2021. Meanwhile, the legal consequences of the suspension of debt obligation's decision reviewed by simple, fast, and affordable principle are resolving debt and receivable problems becomes slowed. As a result, for the debtor, the debtor's business experiences setbacks, and for the creditor, legal certainty regarding the loan being paid is immediately delayed.*

**Keyword:** *Legal Reasoning, Suspension of Debt Obligations, Constitutional Court Decision, Speedy trials, Legal Certainty*

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