

PARAMETER PENILAIAN ASAS *GOING CONCERN* DALAM PROSES HOMOLOGASI PKPU DAN IMPLIKASINYA TERHADAP PELINDUNGAN KREDITOR

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INTISARI

Penelitian ini bertujuan untuk menganalisis parameter penilaian asas *going concern* dalam proses homologasi PKPU dan mengidentifikasi implikasi penerapan asas *going concern* terhadap pelindungan kreditor. Asas *going concern* memberikan kesempatan bagi debitor yang prospektif untuk melanjutkan usahanya. Namun, penerapan asas ini masih dinilai kurang konsisten dan transparan yang berakibat pada risiko kembali gagal bayar oleh debitor. Dengan demikian, penelitian ini berfokus pada bagaimana penerapan parameter penilaian asas *going concern* dan evaluasi dampak penerapannya terhadap hak-hak kreditor.

Metode yang digunakan adalah metode penelitian hukum normatif-empiris secara kualitatif. Data diperoleh melalui studi pustaka dengan menganalisis literatur hukum yang relevan, serta studi lapangan dengan mewawancarai hakim pengawas yang menangani perkara PKPU di Pengadilan Niaga Semarang. Wawancara dilakukan untuk mendapatkan pemahaman dari pihak yang berperan langsung dalam menentukan penerapan asas *going concern* dalam proses homologasi PKPU dan implikasinya terhadap pelindungan kreditor.

Hasil penelitian menunjukkan parameter penilaian asas *going concern* meliputi dukungan mayoritas kreditor, aspek keuangan debitor yang memiliki akuntabilitas dan profitabilitas, aspek proyeksi bisnis debitor yang memiliki potensi pasar dan daya saing, serta aspek manajerial debitor yang akan dievaluasi dan direorganisasi. Implikasi dari asas ini memberikan pelindungan yang baik bagi kreditor, baik sebelum homologasi, pasca-homologasi, maupun saat terjadi pembatalan perdamaian. Namun, UU No. 37 Tahun 2004 masih belum mengatur secara rinci terkait parameter asas *going concern* dan mekanisme pengawasannya. Oleh karena itu, hakim pengadilan niaga perlu meningkatkan transparansi parameter asas *going concern* dalam putusan pengadilan dan dibutuhkan akomodasi pengaturan lebih lanjut terkait mekanisme pengawasan debitor pasca-homologasi dalam UU No. 37 Tahun 2004.

Kata kunci: Homologasi, PKPU, Asas *Going Concern*, Kelangsungan Usaha, Pertimbangan Hakim.

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THE PARAMETERS FOR THE ASSESSMENT OF GOING CONCERN PRINCIPLE IN THE HOMOLOGATION PROCESS OF SUSPENSION OF DEBT PAYMENT OBLIGATION (PKPU) AND ITS IMPLICATIONS FOR CREDITOR PROTECTION

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ABSTRACT

This research aims to analyze the parameters for assessing the going concern principle in the homologation process of PKPU and identify its implications for creditor protection. The going concern principle provides an opportunity for prospective debtors to continue their business. However, the application of this principle is still considered inconsistent and non-transparent. As a result, the risk of the debtor defaulting again is still high. Thus, this research focuses on how the application of the going concern principle parameters and the evaluation of its impact on creditors' rights.

The method used is a qualitative normative-empirical legal research method. Data were obtained through library research by analyzing relevant legal literature, as well as field studies by interviewing judges handling PKPU cases at the Semarang Commercial Court. Interviews were conducted to gain an understanding from those who directly involved in determining the application of the going concern principle in the PKPU homologation process and its implications for creditor protection.

The results of this research show that the parameters for the assessment of going concern principle consists of the support of the majority of creditors, debtor's financial aspects that have accountability and profitability, debtor's business projection aspects that have market potential and competitiveness, and debtor's managerial aspects that will be evaluated and reorganized. The implications of this principle provide good protection for creditors before homologation, post-homologation, and when a cancellation of the settlement occurs. However, Law Number 37 of 2004 still doesn't have detail of the parameters and its supervision mechanisms. Therefore, commercial court judges need to enhance the transparency of the going concern principle parameters in court decisions, and further regulatory accommodations are required regarding the post-homologation debtor supervision mechanism in Law Number 37 of 2004.

Keywords: *Homologation, Suspension of Debt Payment Obligation, Going Concern Principle, Business Continuity, Judge's Consideration.*

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