Kepastian Hukum bagi Kreditor dalam Cross-Border Insolvency: Pengakuan Proses PKPU PT Garuda
Indonesia oleh Singapore International Commercial Court dalam Perspektif UNCITRAL Model Law on Cross-Border Insolvency
Rafaela Maria Kenya Mutiastu, Prof. Dr. Drs. Paripurna, S.H., M.Hum., LL.M.
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KEPASTIAN HUKUM BAGI KREDITOR DALAM *CROSS-BORDER INSOLVENCY*: PENGAKUAN PROSES PKPU PT GARUDA INDONESIA OLEH SINGAPORE INTERNATIONAL COMMERCIAL COURT DALAM PERSPEKTIF UNCITRAL MODEL LAW ON CROSS-BORDER INSOLVENCY

Rafaela Maria KenyaMutiastu,[1] Paripurna[2]

INTISARI

Penelitian ini bertujuan untuk menganalisis kepastian hukum bagi kreditor dalam perkara kepailitan lintas batas ditinjau dari Undang-Undang Nomor 37 Tahun 2004 tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang (UU Kepailitan dan PKPU), dengan objek kajian perkara PKPU PT Garuda Indonesia (Persero) Tbk. Penelitian ini selanjutnya menganalisis dasar pengakuan proses PKPU tersebut sebagai *foreign main proceeding* oleh Singapore International Commercial Court (SICC) melalui Putusan [2024] SGHC(I) 1 berdasarkan UNCITRAL Model Law on Cross-Border Insolvency (Model Law), pengaruh pengakuan tersebut terhadap kepastian hukum bagi kreditor, serta implikasinya bagi hukum kepailitan lintas batas di Indonesia.

Penelitian ini merupakan penelitian hukum normatif yang mengkaji hukum sebagai norma dengan berfokus pada analisis substantif terhadap bahan hukum yang relevan. Data sekunder sebagai sumber utama diperoleh melalui studi pustaka yang mencakup peraturan perundang-undangan, putusan pengadilan, dan instrumen hukum internasional, serta literatur berupa buku, jurnal ilmiah, dan artikel akademik. Seluruh bahan hukum yang diperoleh dianalisis menggunakan pendekatan peraturan perundang-undangan, pendekatan kasus, dan pendekatan konseptual. Penelitian ini juga didukung oleh wawancara dengan praktisi kepailitan dan PKPU yang hasilnya digunakan sebagai bahan penunjang.

Hasil penelitian menunjukkan bahwa: Pertama, UU Kepailitan dan PKPU memberikan kepastian hukum secara terbatas bagi kreditor dalam perkara kepailitan lintas batas karena tidak memiliki mekanisme penyelesaian perkara kepailitan lintas batas. Kedua, pengakuan proses PKPU PT Garuda Indonesia oleh SICC dapat memberikan kepastian hukum bagi kreditor melalui berlakunya rencana perdamaian di yurisdiksi Singapura. Kondisi ini menunjukkan urgensi bagi Indonesia untuk mengadopsi ketentuan Model Law ke dalam sistem hukum nasional.

Kata Kunci: Kepastian Hukum bagi Kreditor, Kepailitan Lintas Batas, UNCITRAL Model Law on Cross-Border Insolvency

[1] Mahasiswa Departemen Hukum Bisnis Fakultas Hukum Universitas Gadjah Mada.
[2] Dosen Departemen Hukum Bisnis Fakultas Hukum Universitas Gadjah Mada.

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LEGAL CERTAINTY FOR CREDITORS IN CROSS-BORDER INSOLVENCY: RECOGNITION OF PT GARUDA INDONESIA'S PKPU PROCEEDING BY THE SINGAPORE INTERNATIONAL COMMERCIAL COURT FROM THE PERSPECTIVE OF THE UNCITRAL MODEL LAW ON CROSS-BORDER INSOLVENCY

Rafaela Maria Kenya Mutiastu,[1] Paripurna[2]

ABSTRACT

This research aims to analyze legal certainty for creditors in cross-border insolvency cases as examined under Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (Indonesian Bankruptcy and Suspension of Debt Payment Obligations Law), with the PKPU (suspension of debt payment obligations) case of PT Garuda Indonesia (Persero) Tbk as its object of study. This research further analyzes the basis for the recognition of the said PKPU proceeding as a foreign main proceeding by the Singapore International Commercial Court (SICC) in Judgment [2024] SGHC(I) 1 under the UNCITRAL Model Law on Cross-Border Insolvency (Model Law), the effect of such recognition on legal certainty for creditors, and its implications for Indonesian cross-border insolvency law.

This research is a normative legal study that examines law as a norm by focusing on substantive analysis of relevant legal materials. Secondary data as the main source of this research was obtained through literature studies including law and regulations, court decisions, and international legal instruments, as well as literature in the form of books, scientific journals, and academic articles. All legal materials obtained were analyzed using the statutory approach, case study approach, and conceptual approach. This research was also supported by interviews with bankruptcy and PKPU practitioners, the results of which served as supporting material.

The results indicate that: First, the Bankruptcy Law provides limited legal certainty for creditors in cross-border insolvency cases due to the lack of cross-border insolvency regulations. Second, the recognition of PT Garuda Indonesia's PKPU proceeding by the SICC can provide legal certainty for creditors through the enforcement of composition plan in Singapore. This situation demonstrates the urgency for Indonesia to adopt the provisions of the Model Law into its national legal system.

Keywords: *Legal Certainty for Creditors, Cross-Border Insolvency, UNCITRAL Model Law on Cross-Border Insolvency.*

[1] Undergraduate Student of Business Law Department Faculty of Law Universitas Gadjah Mada.
[2] Lecturer of Business Law Department Faculty of Law Universitas Gadjah Mada.