



LEGAL CERTAINTY OF SUSPENSION OF DEBT PAYMENT OBLIGATIONS PROCEEDINGS DURING THE COVID-19 PANDEMIC PERIOD

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ABSTRACT

During the Covid-19 pandemic period, the Suspension of Debt Payment Obligations (PKPU) Proceedings at the Commercial Court in Indonesia are now carried out online. The implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online in the Commercial Court during the Covid-19 pandemic period was carried out based on the Regulation of the Supreme Court of the Republic of Indonesia (PERMA) Number 1 of 2019 and the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number 109/KMA/SK/IV/2020. However, the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online during the Covid-19 pandemic period in every Commercial Court in Indonesia varies, depending on the conditions and facilities at the Commercial Court. In response to this, since the beginning of 2022, the Supreme Court has drawn up a draft amendment to PERMA Number 1 of 2019 and formed technical instructions for amendments to PERMA Number 1 of 2019 which the preparation is still ongoing until August 2022. This research was conducted using a normative juridical law research method. This study discusses the amendments to PERMA Number 1 of 2019 and the draft technical instructions for amendments to PERMA Number 1 of 2019. The results of the study showed that the draft amendments to PERMA Number 1 of 2019 and the draft of technical instructions for amendments to PERMA Number 1 of 2019 still do not regulate the implementation of creditor meetings and online voting. In this regard, it is recommended that the Supreme Court add rules regarding guidelines for conducting creditor meetings and online voting in the Suspension of Debt Payment Obligations (PKPU) Proceedings Online process so that the Suspension of Debt Payment Obligations (PKPU) Proceedings Online process in all Commercial Courts is uniform and provides legal certainty for the parties.

Keywords: Online; Covid-19; Commercial Court; e-Court

INTRODUCTION

Entering the third year since it first spread, the Covid-19 pandemic has had a major impact on life. In addition, to give a domino effect on the health and social sectors, the Covid-19 pandemic has also had a major impact on the economic and business world, both nationally and globally. The Covid-19 pandemic has resulted in a downturn for business actors due to the difficulty of running a business during the Community Activities Restrictions Enforcement (*Pemberlakuan Pembatasan Kegiatan Masyarakat* 'PPKM'). Many entrepreneurs whose business continuity is threatened or even forced to go out of business.

The downturn in the economic and business world due to the Covid-19 pandemic has also had an impact on the legal world. This is marked by

the drastic increase in the filing of applications for Suspension of Debt Payment Obligations ('*Penundaan Kewajiban Pembayaran Utang*' PKPU) in the Commercial Court. For example, the Case Investigation Information System (*Sistem Informasi Penelusuran Perkara* 'SIPP') of the Central Jakarta District Court has recorded that throughout 2021 there were 512 Suspension of Debt Payment Obligations (PKPU) cases that were entered and registered at the Commercial Court at the Central Jakarta District Court.¹ The number of Suspension of Debt Payment Obligations (PKPU) cases in 2021 jumped sharply, where previously in 2020, 440 new cases were entered and registered at the Central Jakarta Commercial Court. As of

¹ "SIPP," diakses Juli 11, 2022, http://sipp.pn-jakartapusat.go.id/statistik_perkara.

the second quarter of 2022, 147 new cases have been registered at the Central Jakarta Commercial Court.² As of the second quarter of 2022, 147 new cases have been registered at the Central Jakarta Commercial Court.³ The increase in the number of submissions for Suspension of Debt Payment Obligations (PKPU) applications does not include the increase in the number of Suspension of Debt Payment Obligations (PKPU) applications in other Commercial Courts throughout Indonesia.

In addition to the difficult economic conditions during the Covid-19 pandemic, the increasing number of Suspension of Debt Payment Obligations (PKPU) applications is also due to the ease of Suspension of Debt Payment Obligations (PKPU) application submission required by Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (PKPU). Submission of Suspension of Debt Payment Obligations (PKPU) application under the Bankruptcy and Suspension of Debt Payment Obligations (PKPU) Law only requires two conditions. First, the Suspension of Debt Payment Obligations (PKPU) application can be submitted by Creditors or by Debtors who have more than one creditor.⁴ Second, the debtor requested Suspension of Debt Payment Obligations (PKPU) cannot or is expected to be unable to continue paying their debts that are due and collectible.⁵ In addition to the pandemic conditions and the ease of application submission requirements, the number of Suspension of Debt Payment Obligations (PKPU) applications in the courts has also increased because the Suspension of Debt Payment Obligations (PKPU) is often an alternative for entrepreneurs to avoid bankruptcy. It can be said, the need for debt restructuring by entrepreneurs during the Covid-19 pandemic caused a drastic surge in Suspension of Debt Payment Obligations (PKPU) applications in the Commercial Court.

The surge in Suspension of Debt Payment

² Ibid.

³ Ibid.

⁴ Undang-Undang Republik Indonesia Nomor 37 Tahun 2004 Tentang Kepailitan dan Penundaan Kewajiban Pembayaran Utang, “Undang-Undang Republik Indonesia Nomor 37 Tahun 2004 Tentang Kepailitan Dan Penundaan Kewajiban Pembayaran Utang,” Ps. 222 (1).

⁵ Ibid.

Obligations (PKPU) applications shows the need for an effective, efficient and modern implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings in the Commercial Court. Even though the current Covid-19 pandemic still exists or will disappear someday and economic and business conditions will get better, technical improvements to the implementation of Suspension of Debt Payment Obligations (PKPU) in the Commercial Court must still be carried out in order to achieve good service and justice system. For this reason, the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online is carried out in all Commercial Courts.

The Suspension of Debt Payment Obligations (PKPU) Proceedings Online has been implemented since the beginning of 2020. The rules that underlie the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online are the Regulation of the Supreme Court of the Republic of Indonesia (PERMA) Number 1 of 2019 concerning the Administration of Cases and Trials in Electronic Courts. For the technical implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online, the Commercial Court is guided by the Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number 109/KMA/SK/IV/2020 concerning Enforcement of the Guidelines for Settlement of Bankruptcy Cases and Suspension of Debt Payment Obligations.

Although it has been implemented for more than two years and there are legal umbrellas and guidelines regarding the technical implementation, the Suspension of Debt Payment Obligations (PKPU) Proceedings Online has not been evenly applied in all Commercial Courts in Indonesia. For example, the differences in the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings that occurred in the Commercial Court of Semarang and the Commercial Court of Central Jakarta. At the Semarang Commercial Court, the Suspension of Debt Payment Obligations (PKPU) Proceedings have been completely online. It is different from the Central Jakarta Commercial Court which does it in a hybrid way, which is a combination of online and offline.⁶

⁶ “Pelaksanaan Sidang PKPU Selama Pandemi Harus Seragam,” diakses Juli 11, 2022, <https://mediaindonesia.com>.

The difference in implementation at the Central Jakarta Commercial Court with the Semarang Commercial Court and other Commercial Courts shows that there are differences in the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings at the Commercial Court in Indonesia, where there are those who have fully implemented Suspension of Debt Payment Obligations (PKPU) Proceedings, but there are still those that still doing it offline and some are still doing it offline and some are doing it in a combination between online and offline (hybrid).⁷ Differences in the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online are due to the absence of technical instructions that regulate the guidelines for the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online from the Supreme Court as the institution that oversees the judiciary in Indonesia. In addition, the absence of standards in the implementation of the Suspension of Debt Payment Obligations (PKPU) Proceedings in the Court that regulates how to conduct virtual meetings, online voting, and submission of evidence at online courts is considered to create legal uncertainty for the community.

To this problem, the Supreme Court has responded to the need for a legal instrument for the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online in the Commercial Court by revising PERMA Number 1 of 2019 and the formation of regulations on the technical instructions and guidelines for resolving bankruptcy cases and Suspension of Debt Payment Obligations (PKPU) Proceedings Online which are still ongoing today. The revisions to the regulations underlying the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online and the issuance of legal instruments related to technical regulations for the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online at the Commercial Court are expected to provide legal certainty and fixed standards to achieve uniformity

com/politik-dan-hukum/422217/pelaksanaan-sidang-pkpu-selama-pandemi-harus-seragam.

⁷ "Persidangan PKPU di Tengah Pandemi Dinilai Perlu Ada Keseragaman," diakses Juli 11, 2022, <https://www.beritasatu.com/nasional/808009/persidangan-pkpu-di-tengah-pandemi-dinilai-perlu-ada-keseragaman>.

of Suspension of Debt Payment Obligations (PKPU) Proceedings Online procedures in all Commercial Courts in Indonesia which provides legal certainty for the community.

Based on this, the issues raised in this journal are:

1. How is the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online in the Commercial Court during the Covid-19 pandemic?
2. How are the changes to regulations regarding the online trials and the formation of technical instructions and guidelines for the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online in order to provide legal certainty for the community?

The urgency of writing this journal is for the development of science, especially in the field of Suspension of Debt Payment Obligations (PKPU) and Procedural Law in Indonesia. In addition, this journal is also expected to contribute in the form of advice to the Supreme Court in the formation of regulations regarding technical instructions and guidelines for resolving Suspension of Debt Payment Obligations (PKPU) Online cases and provide advice on the practice of implementing Suspension of Debt Payment Obligations (PKPU) Proceedings Online in the Commercial Court so that uniformity is achieved throughout the Commercial Courts in Indonesia and provides legal certainty for the community.

RESEARCH METHOD

The research method used in writing this journal is normative juridical law research which is carried out by examining library materials or secondary data.⁸ This study uses a statute approach, which is an approach carried out by examining laws and regulations related to the issues raised in this study, and an analytical approach is carried out to determine the application of regulations regarding Suspension of Debt Payment Obligations (PKPU) Proceedings and Suspension of Debt Payment Obligations (PKPU) Proceedings Online in practice.⁹ Sources of legal materials used in this

⁸ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, (Jakarta: RajaGrafindo, 1995), 15.

⁹ Dr. Muhaimin, S.H., M.Hum., *Metode Penelitian*

study are primary legal materials in the form of statutory regulations and secondary legal materials in the form of legal books, legal journals, legal research results, legal articles, and so on.¹⁰ The technique of collecting legal materials for this research was carried out utilizing a literature study of primary and secondary legal materials, as well as searching for legal materials through the internet.¹¹

DISCUSSION AND ANALYSIS

A. Implementation of the Suspension of Debt Payment Obligations (PKPU) Proceedings During Covid-19 Pandemic Period

Suspension of Debt Payment Obligations (PKPU) is defined as a Legal Moratorium because Suspension of Debt Payment Obligations (PKPU) is a law through the decision of a Commercial Court Judge which provides a suspension for the Debtors to pay their debts.¹² During this period the Debtor is given the opportunity to provide a full or partial payment plan/offer to the Creditor.¹³ Suspension of Debt Payment Obligations (PKPU) is an opportunity given to Debtors to restructure debts and if this opportunity is not taken, then debt repayment must be made through the bankruptcy mechanism.

During the Suspension of Debt Payment Obligations (PKPU) period, the Debtor cannot be forced to pay the debt and all executions carried out for the settlement of the Debtor's debt must be suspended.¹⁴ The Suspension of Debt Payment Obligations (PKPU) can be submitted by Creditors or by Debtors who have more than one Creditor, where the Debtor cannot or is deemed unable to pay his debts that are due and collectible.¹⁵ The

Suspension of Debt Payment Obligations (PKPU) application is submitted to the Commercial Court by attaching a list of receivables, and documents of evidence. If it is the Debtor himself who submits the Suspension of Debt Payment Obligations (PKPU) application, the application may attach a reconciliation plan together with other requirements.¹⁶

The stages in Suspension of Debt Payment Obligations (PKPU) are divided into two, namely Temporary Suspension of Debt Payment Obligations (PKPU) and Permanent Suspension of Debt Payment Obligations (PKPU).¹⁷ Temporary Suspension of Debt Payment Obligations (PKPU) is the first stage in the Suspension of Debt Payment Obligations (PKPU) Proceedings. In the Temporary Suspension of Debt Payment Obligations (PKPU), the administrative requirements for the Suspension of Debt Payment Obligations (PKPU) application are checked for completeness. If the administrative requirements of the application are fulfilled, the Commercial Court Judge will immediately grant the Suspension of Debt Payment Obligations (PKPU) application and appoint the Suspension of Debt Payment Obligations (PKPU) Administrator, as well as appoint a Supervisory Judge to oversee the Suspension of Debt Payment Obligations (PKPU) Administrator performance. The term of the Temporary Suspension of Debt Payment Obligations (PKPU) lasts for a maximum of 45 days as from the decision of the Temporary Suspension of Debt Payment Obligations (PKPU) is pronounced by the Judge.¹⁸

The Suspension of Debt Payment Obligations (PKPU) Administrator must immediately publish the announcement of the Suspension of Debt Payment Obligations (PKPU) decision and the invitation to the judge's deliberation meeting immediately after their appointment. The announcement must be published in the State

Hukum, (Mataram: Mataram University Press, 2020), 56-58.

¹⁰ Ibid, 60.

¹¹ Ibid, 64-65.

¹² Dr. Munir Fuady, S.H., M.H., LL.M., *Hukum Pailit dalam Teori dan Praktek*, (Bandung: PT. Citra Aditya Bakti, 2017), 175.

¹³ Ibid.

¹⁴ Ibid., 29.

¹⁵ Undang-Undang Republik Indonesia Nomor 37 Tahun 2004 Tentang Kepailitan Dan Penundaan Kewajiban Pembayaran Utang, "Undang-Undang Republik Indonesia Nomor 37 Tahun 2004 Tentang Kepailitan Dan Penundaan Kewajiban

Pembayaran Utang."

¹⁶ Dr. Munir Fuady, S.H., M.H., LL.M., *Hukum Pailit dalam Teori dan Praktek*, 176.

¹⁷ Ibid.

¹⁸ Undang-Undang Republik Indonesia Nomor 37 Tahun 2004 Tentang Kepailitan Dan Penundaan Kewajiban Pembayaran Utang, "Undang-Undang Republik Indonesia Nomor 37 Tahun 2004 Tentang Kepailitan Dan Penundaan Kewajiban Pembayaran Utang." Ps. 225.

Gazette and at least two daily newspapers.¹⁹ In practice, the announcement of the Suspension of Debt Payment Obligations (PKPU) Decision is published at the same time as the announcement of the invitation to the first creditor meeting, information regarding the deadline for submitting invoices to the Administrator, invitation to the receivables matching meeting and invitation to the reconciliation plan meeting. It aims to make announcements more efficient and save publication costs.²⁰

After the publication of the Suspension of Debt Payment Obligations (PKPU) Decision and meeting schedules, the Administrator then conducts the First Creditor Meeting according to the schedule that has been announced in the State Gazette and Newspapers. In the first creditor meeting, the Suspension of Debt Payment Obligations (PKPU) Administrator acts as a facilitator who bridges the interests of the Debtor and Creditor. Matters discussed in the first creditor meeting included the Suspension of Debt Payment Obligations (PKPU) Decision, reports on the Debtor assets, matters regarding the Granting of Permanent Suspension of Debt Payment Obligations (PKPU) and the extension period, reports from the Suspension of Debt Payment Obligations (PKPU) Administrator regarding what they have done since they were first appointed as Administrator in the Suspension of Debt Payment Obligations (PKPU) Proceedings, meeting schedules that have been announced in the State Gazette and Newspapers, the status of employees after Suspension of Debt Payment Obligations (PKPU), the status of leases, opportunities for reconciliation, procedures for submitting invoices to the Suspension of Debt Payment Obligations (PKPU) Administrator, formation of creditor committee, schedule of meetings to discuss the reconciliation plan, and other matters related to the Suspension of Debt Payment Obligations (PKPU).²¹

The Suspension of Debt Payment Obligations (PKPU) Administrator will receive invoice claim submission from the Creditor since the Debtor

¹⁹ Ibid Ps.226.

²⁰ Eries Jonifianto, S.H., M.H. dan Andika Wijaya, S.H., Kompetensi Profesi Kurator dan Pengurus, Panduan Menjadi Kurator dan Pengurus yang Profesional dan Independen, 48-49.

²¹ Ibid, 49.

is declared in a Suspension of Debt Payment Obligations (PKPU) state or other words since they were appointed as the Administrator in the Suspension of Debt Payment Obligations (PKPU). The invoice claim submission ends in accordance with the deadline for filing of invoice claim which has been determined by the Supervisory Judge as stated in the announcements in the State Gazette and Newspapers. The claim is then examined by the Administrator by matching the billing proof document attached by the Creditor with the reports and records held by the Debtor. Based on the matching results, the Suspension of Debt Payment Obligations (PKPU) Administrator will determine whether to admit or deny such invoice claims.²²

If the deadline for submitting an invoice claim has expired and the invoice claim has been matched, the Administrator will make a Temporary Receivables List to be matched with the Creditor at the Commercial Court. The Temporary Receivables List contains the name, address of the Creditor, amounts of receivables, and an explanation/information regarding the receivables being acknowledged or denied by the Administrator.²³ The list of receivables is provided by the Administrator at the Registrar's Office of the Commercial Court no later than seven days prior to the meeting to discuss the reconciliation plan so that it can be viewed free of charge by the Creditor.²⁴ The provision of a Temporary Receivables List at the Registrar Office of the Commercial Court aims to fulfill the principle of publicity so that interested parties, both creditor and other party, can take a stand regarding the debt restructuring plan proposed by the Debtor. The Temporary Receivable List may still change according to the matching results with the Creditor.²⁵

²² Ibid, 50.

²³ Undang-Undang Republik Indonesia Nomor 37 Tahun 2004 Tentang Kepailitan Dan Penundaan Kewajiban Pembayaran Utang, "Undang-Undang Republik Indonesia Nomor 37 Tahun 2004 Tentang Kepailitan Dan Penundaan Kewajiban Pembayaran Utang." Ps.272.

²⁴ Ibid Ps.276.

²⁵ Eries Jonifianto, S.H., M.H. dan Andika Wijaya, S.H., Kompetensi Profesi Kurator dan Pengurus, Panduan Menjadi Kurator dan Pengurus yang Profesional dan Independen, 52.

After the receivables matching meeting is held, the Suspension of Debt Payment Obligations (PKPU) Administrator will make a Fixed Receivable List. The list is made based on the results of the receivables matching meeting with the Creditor recorded in the Minutes of the Meeting. Just like the Temporary Receivables List, the Fixed Receivables List also contains the name, address of the Creditor, amounts of receivables, and an explanation/information regarding the receivables being acknowledged or denied by the Administrator²⁶. However, the Fixed Receivable List is fixed and cannot be changed, unlike the Temporary Receivables List which can change according to the matching results with the Creditor.

Furthermore, the Administrator will hold a meeting to discuss the reconciliation plan proposed by the Debtor. In this meeting, the Administrator also acts as a facilitator bridging the Creditor and Debtor in order to achieve reconciliation that is beneficial for both parties. In the meeting, the Administrator provides a written report on the reconciliation plan proposed by the Debtor. The report will be used as the basis for considering whether the reconciliation plan proposed by the Debtor to the Creditor is accepted or rejected.²⁷

After the meeting to discuss the reconciliation plan is completed, the Administrator will conduct voting to determine the acceptance or rejection of the reconciliation plan proposed by the Debtor. The voting is carried out by the Creditors whose invoice claims are recognized by the Administrator. If approval is obtained from more than half of the number of concurrent creditors whose rights are recognized or temporarily recognized who are present and represent at least two-thirds of the total claims recognized or temporarily recognized by the Concurrent Creditors or their proxies who are present, as well as approval of more than half of the number of creditors holding pledges, fiduciaries, encumbrances, mortgages and other security rights who are present and represent a minimum of two-thirds of the total number of creditors

²⁶ Undang-Undang Republik Indonesia Nomor 37 Tahun 2004 Tentang kepailitan dan Penundaan Kewajiban Pembayaran Utang, “Undang-Undang Republik Indonesia Nomor 37 Tahun 2004 Tentangkepailitan Dan Penundaan Kewajiban Pembayaran Utang.” Ps.272.

²⁷ Ibid Ps.278.

present, will be granted with the determination of Suspension of Debt Payment Obligations (PKPU) along with its extension.²⁸ If the reconciliation plan is accepted, the Administrator can apply for the ratification of the reconciliation so that the Suspension of Debt Payment Obligations (PKPU) ends and the reconciliation is binding on all creditors approving the reconciliation plan. The reconciliation agreement does not bind Creditors who do not agree to the reconciliation plan when voting is carried out.²⁹

The determination of Suspension of Debt Payment Obligations (PKPU) being continued as a Permanent Suspension of Debt Payment Obligations (PKPU) or not must be made no later than 45 days after the Temporary Suspension of Debt Payment Obligations (PKPU) decision is read, through a Judges Deliberation Meeting.³⁰ The determination of Permanent Suspension of Debt Payment Obligations (PKPU) is carried out if there is no reconciliation between the Debtor and Creditor so that the Permanent Suspension of Debt Payment Obligations (PKPU) is given to give time for the Debtor to reach reconciliation with the Creditors.³¹ On the other hand, if during the Suspension of Debt Payment Obligations (PKPU) Proceedings the reconciliation plan is approved by the Creditors and a settlement is reached, a Judges Deliberation Meeting is held to carry out homologation/ratification of the reconciliation agreement. The period of completion of the Permanent Suspension of Debt Payment Obligations (PKPU) along with its extension lasts for a maximum of 270 days from the date of the decision of the Permanent Suspension of Debt Payment Obligations (PKPU) by the Commercial Court.³²

²⁸ Ibid Ps.229 (1).

²⁹ Ibid Ps.286.

³⁰ Dr. Munir Fuady, S.H., M.H., LL.M., Hukum Pailit dalam Teori dan Praktek, 177.

³¹ Eries Jonifianto, S.H., M.H. dan Andika Wijaya, S.H., Kompetensi Profesi Kurator dan Pengurus, Panduan Menjadi Kurator dan Pengurus yang Profesional dan Independen, 57.

³² Undang-Undang Republik Indonesia Nomor 37 Tahun 2004 Tentangkepailitan Dan Penundaan Kewajiban Pembayaran Utang, “Undang-Undang Republik Indonesia Nomor 37 Tahun 2004 Tentangkepailitan Dan Penundaan Kewajiban Pembayaran Utang.” Ps.228 (6).

The implementation of the Suspension of Debt Payment Obligations (PKPU) Proceedings in the Court as mentioned above is usually carried out offline or face to face in the Court as stipulated by Law Number 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (PKPU) and Decree of the Chief Justice of the Supreme Court of the Republic of Indonesia Number: 109/KMA/SK/ IV/2020 concerning Enforcement of the Guidelines for Settlement of Bankruptcy Cases and Suspension of Debt Payment Obligations. There are exceptions if the registration and administration of Suspension of Debt Payment Obligations (PKPU) cases from the beginning are carried out electronically/online at the Commercial Court in accordance with PERMA Number 1 of 2019 concerning Administration of Cases and Trials in Electronic Courts, the implementation of the Suspension of Debt Payment Obligations (PKPU) Proceedings can be carried out online.

Although registration and administration are carried out online in accordance with PERMA Number 1 of 2019, the online Suspension of Debt Payment Obligations (PKPU) Proceedings are technically only related to administration, summoning the parties, and submitting the decision. Trials and creditor meetings are not regulated online. However, since the spread of the Covid-19 pandemic and the Enforcement of Community Activities Restrictions, the implementation of the Suspension of Debt Payment Obligations (PKPU) Proceedings in the Court has changed. Trials and meetings in the Suspension of Debt Payment Obligations (PKPU) Proceedings which were previously conducted offline at the Commercial Court are now conducted online or hybrid to prevent the spread and transmission of Covid-19.³³ The implementation of the online trial is also because the Commercial Court as a gathering place for people seeking justice has become a place that is prone to the spread and transmission of Covid-19.

Even though entering 2022 the Government has made concessions to the public, such as being allowed to return to face-to-face activities and People being allowed to take off their masks in

³³ “Pelaksanaan Sidang PKPU Selama Pandemi Harus Seragam,” diakses Juli 11, 2022, <https://mediaindonesia.com/politik-dan-hukum/422217/pelaksanaan-sidang-pkpu-selama-pandemi-harus-seragam>.

public places, the Suspension of Debt Payment Obligations (PKPU) trial and online case administration at the Court will still be carried out. This can be seen from the Supreme Court which accommodates the needs and proposals regarding the establishment of the Online Suspension of Debt Payment Obligations (PKPU) procedure as well as the establishment of regulations related to the online Suspension of Debt Payment Obligations (PKPU) trials. In the webinar organized by the Restructuring and Insolvency Chamber Indonesia (RICI) on 30 July 2021, it was discussed about the implementation of online trials in the Court, in particular the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online.

In the webinar, it was discussed that the Suspension of Debt Payment Obligations (PKPU) trial at the Commercial Court was carried out differently in each Commercial Court according to the conditions, both the conditions of the parties to the litigation and the condition of the facilities and infrastructure of the Commercial Court because the Enforcement of Community Activities Restrictions did not allow the normal Suspension of Debt Payment Obligations (PKPU) Proceedings to be carried out. For example, Suspension of Debt Payment Obligations (PKPU) trials held at the Central Jakarta Commercial Court is often carried out in a hybrid manner, where meetings are conducted online, but the mechanism for examining evidence and voting is carried out offline. This depends on the conditions of the Suspension of Debt Payment Obligations (PKPU) case, such as a large number of Creditors and all of them want to attend and participate and want to know the reconciliation plan proposed by the Debtor, while the Enforcement of Community Activities Restrictions does not allow many crowds to gather in one closed place, finally, the Suspension of Debt Payment Obligations (PKPU) trial is carried out in a hybrid manner. In the hybrid trial, the meeting is held online while the rest is carried out offline. The online trial at the Central Jakarta Commercial Court is considered to be able to create effective communication in the Suspension of Debt Payment Obligations (PKPU) Proceedings so that the core and purpose of Suspension of Debt Payment Obligations (PKPU)

to achieve Reconciliation can be realized.³⁴

It is different from the Semarang Commercial Court, in the same webinar it is stated that the Semarang Commercial Court has been able to fully carry out Suspension of Debt Payment Obligations (PKPU) online meetings. However, case registration and trial examinations are not carried out online because there is no legal instrument, especially when a written evidence examination mechanism is needed.³⁵ In the webinar, it was stated that the Suspension of Debt Payment Obligations (PKPU) trial at the Semarang Commercial Court was also carried out according to the needs and circumstances of the ongoing Suspension of Debt Payment Obligations (PKPU) Proceedings. The Suspension of Debt Payment Obligations (PKPU) trials, both online and offline, are carried out according to the conditions and facilities of the Commercial Court itself. For example, the courtroom at the Semarang Commercial Court is not as much as the courtroom at the Central Jakarta Commercial Court. In a Suspension of Debt Payment Obligations (PKPU) trial with a small number of creditors, all stages are carried out online because the Suspension of Debt Payment Obligations (PKPU) Proceeding situation allows for an online trial without the need for face-to-face meetings. There are also not many creditors in the Suspension of Debt Payment Obligations (PKPU), so the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online is considered more effective and expected to be able to create active communication with creditors.³⁶

As long as the technical instructions for the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online have not been established, the implementation of Suspension of Debt Payment Obligations (PKPU) trials and meetings to date been carried out based on the provisions in PERMA Number 1 of 2019 concerning Administration of Cases and Trials in Electronic Courts and Decree of the Chief Justice of the Supreme Court of the Republic

of Indonesia Number: 109/KMA/SK/IV/2020 Concerning Enforcement of the Guidelines for Settlement of Bankruptcy Cases and Suspension of Debt Payment Obligations. PERMA Number 1 of 2019 regulates who is the user of electronic case administration services, administration of registration and payment of court fees electronically, electronic calls and notifications, electronic court proceedings, and electronic case administration management.

PERMA Number 1 of 2019 defines electronic trials as a series of processes for examining and adjudicating cases by district courts, religious courts/ sharia courts, military courts and state administrative courts carried out with the support of information and communication technology.³⁷ The Article 4 of PERMA explains that the PERMA applies to trials with the agenda of submitting claims/ applications/ objections/ resistance/ interventions and their amendments, answers, replication rejoinder, evidence, conclusions, and pronouncements of decisions/stipulations.³⁸

The procedure for submitting a Suspension of Debt Payment Obligations (PKPU) application Online according to PERMA Number 1 of 2019 is submitted to the Commercial Court as a special court within the general court environment. Suspension of Debt Payment Obligations (PKPU) application included in the qualification of application that can be registered in court electronically which the proceedings follow the provisions of civil procedural law. However, the problem is that the Suspension of Debt Payment Obligations (PKPU) Proceedings is not like a civil case where only a trial is carried out with a panel of judges, but some meetings must be held by the Debtor, Creditors, Administrators and Supervisory Judges whose mechanism is different from the trial. PERMA Number 1 of 2019 does not regulate the conduct of creditor meetings electronically so there are no standard instructions for holding Suspension of Debt Payment Obligations (PKPU) Online meetings.

³⁴ "Arkananta Vennootschap," diakses Juli 11, 2022, <https://arkanantalaw.co.id/news/mekanisme-penundaan-kewajiban-pembayaran-utang-pkpu-online-di-era-pandemi>.

³⁵ "Pelaksanaan Sidang PKPU Selama Pandemi Harus Seragam."

³⁶ Ibid.

³⁷ Indonesia, Perma Tentang Administrasi Perkara dan Persidangan di Pengadilan Secara Elektronik, Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2019, BN Nomor 894 Tahun 2019, Ps. 1 angka 7 jo. Angka 1.

³⁸ Ibid Ps. 4.

B. Changes in Regulations regarding Online Trials and the Establishment of Technical Instructions and Guidelines for Suspension of Debt Payment Obligations (PKPU) Case Settlement Online

The implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online, especially during the Covid-19 pandemic, makes it easy for parties to be able to attend trials or meetings through audiovisual media. The parties can attend court and creditor meetings anywhere, under any circumstances, even though they are undergoing independent isolation. However, in addition to the convenience offered by Suspension of Debt Payment Obligations (PKPU) Proceedings Online, its implementation is considered to have no legal certainty because there are no technical instructions and guidelines governing the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online since the Covid-19 pandemic so that the implementation of the Suspension of Debt Payment Obligations (PKPU) process in the Commercial Court varies.

From the beginning of 2022 until August 2022, the Supreme Court is still drafting amendments to PERMA Number 1 of 2019 concerning the Administration of Cases and Trials in Electronic Courts. The draft amendment to the PERMA contains changes to the rules for case administration and online court proceedings for civil cases, special civil cases, religious civil matters, military administration, and state administration, as well as the management and settlement of bankrupt assets. The amendments to PERMA Number 1 of 2019 will be combined with the amendments to PERMA Number 4 of 2020 concerning Administration of Cases and Criminal Case Trials in Electronic Courts and made into one regulation.³⁹

The Supreme Court made several amendments and added articles to PERMA Number 1 of 2019. Article 3 of PERMA Number 1 of 2019 was amended so that it reads as administrative and electronic trials for civil, special civil, religious civil cases, state administration, and military

³⁹ “MA Sampaikan Poin Perubahan Perma Sistem Peradilan Elektronik,” diakses Juli 11, 2022, <https://www.hukumonline.com/berita/a/ma-sampaikan-poin-perubahan-perma-sistem-peradilan-elektronik-lt62260a0191057/>.

administration as well as administration and Settlement of bankrupt assets applies to courts of the first instance and appeal. Article 4 of the PERMA was also amended, namely, the electronic trials carried out for the event of submitting a lawsuit or application or objection or rebuttal or resistance or intervention along with the amendments, submission of answers, submission of replication, submission of rejoinder, evidence, conclusions and reading of decisions or decisions, and appeal lawsuit.⁴⁰

Additions are made to Article 5 of PERMA Number 1 of 2019, namely electronic administration services used by registered users, as well as other users who pay down-payment fees electronically. In the amendment to PERMA, it is also added that the granting of relief for registered users or other users in the form of waiver of court fees on the condition that they must upload application documents and documents stating that they are economically incapable.⁴¹

Then, Article 14 of PERMA Number 1 of 2019 was also amended, namely, regarding legal remedies in the form of resistance (*verzet*), objections, and appeals according to the changes in PERMA, registration is carried out through the Case Information System (Sistem Informasi Perkara ‘SIP’). If Defendant files an objection against the *verstek* decision and the Plaintiff files an appeal, then the appeal submitted by Plaintiff will be declared invalid and the filing will be done electronically through the Case Information System (SIP).⁴²

The rules regarding summons and notifications are also changed in Article 15, namely the submission of summons or notifications to litigants is carried out electronically through their electronic domicile which has been included in the lawsuit. The defendant and other litigating party must have expressed their consent to the case process electronically. In the event that the Defendant or other parties in the litigation is not present, the summons will be submitted by written letter. Article 17 is changed to the submission of

⁴⁰ “Begini Bunyi Perubahan Perma Persidangan Elektronik,” diakses Juli 11, 2022, <https://www.hukumonline.com/berita/a/begini-bunyi-perubahan-perma-persidangan-elektronik-lt62277d5b13000/?page=all>.

⁴¹ Ibid.

⁴² Ibid.

a summons or notification by the bailiff will be made through electronic domicile in the Case Information System (SIP). If the party to be called or given the notification does not have an electronic domicile listed on the Case Information System (SIP), the summons or notification will be delivered by written letter. If the litigating party is outside Indonesia, the submission of the summons or notification shall be made through electronic domicile and/or through other means in accordance with the applicable procedures according to the law.⁴³

The provisions of Article 20 were changed to an electronic trial carried out with the approval of the Defendant at the first trial. The electronic trial began when the mediation process was declared to failed. If the defendant does not agree to conduct an electronic trial, then the submission of answers, rejoinders, and conclusions submitted to the substitute clerk at the latest before the trial schedule and uploaded to the Case Information System (SIP). However, if the defendant is represented by a registered user (advocate), then the trial process is carried out electronically.⁴⁴

Article 22 PERMA regarding the procedure for submitting answers, replications, rejoinders, and conclusions is also amended. In the amendment to the article, the parties are determined to submit electronic documents and/or physical documents for defendants who do not agree to the electronic trial. The submission is carried out at the maximum time of the trial to be held. Amendment to article 24 regarding the agenda for examining written evidence, which is the obligation of the parties to upload documentary evidence that has been affixed with stamp duty to the Case Information System (SIP) before the trial. For the agenda of the trial for examining witnesses and/or expert opinions, the procedure can be carried out remotely via video conference which is carried out with facilities provided by the court. The costs arising from the evidentiary procedure will be borne by the party proposing the witness and/or the expert concerned.⁴⁵

Article 26 of the Amendment to PERMA Number 1 of 2019 stipulates that the signing of decisions or stipulations by judges and clerks is

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

carried out manually, while the pronouncement of the decision or determination is carried out electronically by the judge/chairman of the panel by uploading a copy of the decision or stipulation into the Case Information System (SIP) on the same day and date. A copy of the decision or stipulation uploaded electronically specified in Article 20 paragraph (3) has legal force and consequences.

In addition to changes to the provisions in the existing articles in PERMA Number 1 of 2019, changes were also made by adding provisions regarding Legal Efforts. In Chapter III A of Amendment to PERMA Number 1 of 2019, it is stated that legal remedies must be submitted electronically through the Case Information System (SIP). If the appeal is filed directly, the clerk of the court where the appeal is made must make a deed of the statement of appeal and upload it to the Case Information System (SIP). The provisions in Article 28B concerning down-payment fees for cases are added, which is carried out electronically or through other financial transaction facilities directed to the court's account. Article 28C also adds that notification of an appeal request, sending and submitting a memorandum of appeal, sending and submitting a counter memorandum of appeal, and also notification of the examination of files are also carried out electronically through the Case Information System (SIP). If the parties in the appeal do not have an electronic domicile, the notification will be made in accordance with the procedure regulated by Article 17 paragraphs (2) and (3) of PERMA. All appeal documents are uploaded to the Case Information System (SIP) and the examination of files for parties who do not agree with an electronic trial will be carried out via e-court.⁴⁶

The provisions of Article 28D are added, namely that the appeal case file is sent electronically to the appellate court no later than thirty days from the filing of the appeal. If the appeal file has been sent, the memorandum of appeal and/or counter memorandum of appeal can no longer be accepted. Article 28E regulates the duties of the court clerks at the appellate level, which are tasked with examining the completeness of electronic case files on the Case Information System (SIP). If there is a lack of files, they must be submitted

⁴⁶ Ibid.

to the court that filed for completion. The court applying for it must also complete the lack of files through the Case Information System (SIP). Article 28F also determines things that are carried out through the Case Information System (SIP), namely numbering, determining the appointment of a panel of judges, appointing court clerks, and determining trial days as well as examination and trial of cases by a panel of judges. Then Article 28G adds that the pronouncement of the decision is carried out electronically by the panel of judges and signed manually by the panel of judges and clerks. In this case, the clerk must match the copy of the decision uploaded to the Case Information System (SIP) with a manually signed copy of the verdict. The clerk then signs a copy of the decision electronically and sends it to the court that appeals electronically as well. If the parties request a physical copy, the request is submitted to the appellate court, then the requesting court will forward it to the parties through the Case Information System (SIP). However, if the parties are not registered users, the submission is carried out in accordance with the provisions of Article 17 paragraphs (2) and (3) of the Amendment to PERMA.

Regarding the amendment to PERMA Number 1 of 2019, the Supreme Court also issued a regulation regarding the Technical Instructions for Amendment to the Regulation of the Supreme Court Number 1 of 2019 concerning Administration of Cases and Trials in Electronic Courts and Supreme Court Regulations Number 4 of 2020 concerning Administration of Cases and Criminal Case Trials in Electronic Courts in the form of a Decree of the Chief Justice of the Supreme Court. The decision is divided into fourteen parts consisting of I. General Provisions, II. Users of Electronic Case Administration Services, III. Electronic Administration and Trial of Civil Cases, Religious Civil Cases, State Administrative Cases, and Case Fees, IV. Electronic Administration and Trial of Special Civil Cases, V. Electronic Administration and Trial of Consignment Applications, VI. Electronic Administration and Trial of Special State Administrative Cases/Disputes and Opposition to the Dismissal Determination, VII. Electronic Administration and Trial of Criminal Cases, Criminal Cases, and Military Criminal Cases, VIII. Legal Efforts, IX. Electronic Document Management for Appeals Legal

Efforts, Case Administration Governance, X. Case Administration Governance, XI. Validation of Prospective Users of Registered Advocates, XII. Account Administration of Registered Users and Other Users, XIII. Information Management of Registered Users/Other Users, XIV. Closing.⁴⁷

In the Suspension of Debt Payment Obligations (PKPU) Proceedings, Registered Users, namely Managers, get an online account through the e-court application by stages of accessing the e-court application using a web browser via a computer or tablet, or smartphone, then the Administrator registers by filling in the full name, email address, and password, the Administrator creates an email and password that is different from the email and password as an advocate, the Administrator activates an account at the registered email address and provides electronic domicile approval, the Administrator then logs into the application and completes the Administrator data.⁴⁸

Because the Suspension of Debt Payment Obligations (PKPU) application can also be submitted by Debtors and/or Creditors who can also be represented by their proxies, users of electronic court accounts also include registered users, advocates, and other users. Advocates will get an account online through the e-court application by stages of accessing the application using a web browser via a computer, tablet, or smartphone, registering by entering their full name, email address, and password, and activating the account on the registered email and giving domicile approval electronically, then log in and complete the advocate's data.⁴⁹

For other users, an individual must include the requirements in the form of an ID card or passport, while ministries and institutions/BUMN or other government-owned business entities must include an ID card, Employee Card, and Power of Attorney or Letter of Assignment. For the Prosecutor's Office as a state attorney, it must include an ID card, employee card, power of attorney, or letter of assignment. Legal entities, must include an ID card, a decree as an employee, and a special power of attorney. As for the

⁴⁷ Rancangan Keputusan Ketua Mahkamah Agung (2022).

⁴⁸ Ibid, 10.

⁴⁹ Ibid, 9.

incidental power of attorney, it must have an ID card, a special power of attorney, and incidental permission from the court. In order to get an account on the e-court application, other users can come directly to the e-court table or get it online. However, accounts for other users are only valid for one case at a time, except with the permission of the Chief Justice.⁵⁰

The stage then proceeds to the verification process. For the Administrator, verification is carried out by registering in the commercial court by submitting a photocopy of the ID card, a valid membership card of the Administrator, a certificate of passing the Administrator's examination, and a valid proof of registration of the Administrator. The appointed officer then matches the photocopied documents with the originals. Furthermore, the Chief Justice will appoint an officer with a decree to validate the Administrator's documents.⁵¹

For advocates, the verification is carried out in the High Court by verifying the Official Report of the Oath of Advocates who register as Registered Users. To facilitate the verification process, the High Court must have a database of advocates who have been sworn in at the High Court. Then, the High Court appoints an officer with a Decree to verify the Official Report of the Advocate's Oath. For the Prosecutor as a State Attorney, verification is carried out on the data submitted at the court of the first instance. The court of the first instance then appoints an officer with a decree to verify the requirements relating to registration as a registered user. Furthermore, the appointed officer will notify the Prosecutor's account via electronic domicile which account is also valid for trial at the appeal level. For Other Users, verification of the submitted data is carried out in a court of the first instance. The court of the first instance will appoint an officer through a decree to verify and notify the account to other users through electronic domicile. The account also applies to trials at the appellate level.⁵²

The Suspension of Debt Payment Obligations (PKPU) application is a Special Civil Case so the administrative and trial processes are regulated in Number IV of the Draft Decree. In the event that the Suspension of Debt Payment Obligations

(PKPU) application is submitted by the Debtor, the registered user or other users register the Suspension of Debt Payment Obligations (PKPU) application online through the e-court application. The registration stages include choosing an authorized court, uploading a special power of attorney or assignment letter, getting an online registration number that is not a case number, entering party data and the electronic domicile of the principal, and the Suspension of Debt Payment Obligations (PKPU) respondent.⁵³

Furthermore, the applicant (Debtor) uploads a document in the form of an application, identity in the form of an ID card or passport, or driver's license, if the Debtor is an individual must upload a marriage certificate or legalized marriage book along with a letter of approval from the spouse if in the marriage there is no marriage agreement regarding the separation of assets, upload a list of assets wealth and responsibilities. If in uploading documents the Debtor uploads a document in a foreign language, the document must have been translated into Indonesian by a Sworn Translator. In the event that the Debtor also uploads a letter or document made overseas, the letter must have been ratified by the Indonesian embassy or representative in that country and translated into Indonesian by a Sworn Translator. Because the technical instructions for the settlement of Suspension of Debt Payment Obligations (PKPU) cases are combined with the settlement of bankruptcy cases, regarding registration it is determined that the Administrator/Receiver must upload a statement that the person concerned is independent and has no conflict of interest with the parties and is not currently handling more than three bankruptcy cases/Suspension of Debt Payment Obligations (PKPU), not currently undergo severe sanctions imposed by the Administrator/Receiver organization, as well as a statement that the person concerned is willing to resign if what he stated in the statement letter is proven to be incorrect at a later date. The debtor is also required to upload a letter of approval for the appointment of Administrator/Receiver from the creditor, a list of evidence and evidence that has been stamped, the resolution of the GMS or EGMS signed by the board of directors or in accordance with the provisions of the Memorandum of Association/

⁵⁰ Ibid, 9-10.

⁵¹ Ibid, 11.

⁵² Ibid, 10-12.

⁵³ Ibid, 25-28.

Articles of Association, Memorandum of Association/Articles of Association documents and their amendments, the latest audited balance sheet by a public auditor, deed of incorporation and evidence of debts.⁵⁴

The debtor will then get an estimated down-payment fee that must be paid electronically. In the technical instructions for amendments to PERMA Number 1 of 2019, it is determined that if the Suspension of Debt Payment Obligations (PKPU) application is still in the trial process or the homologation process, then a new Suspension of Debt Payment Obligations (PKPU) application cannot be submitted again against the same Debtor.⁵⁵

If the Suspension of Debt Payment Obligations (PKPU) application is submitted by the Creditor, the registration is carried out by the Creditor who is a registered user or other user electronically through the e-court application which is accessed by a web browser via a computer or tablet or smartphone and uploads documents as is carried out in the registration by the Debtor, except for the approval letter for the appointment of Administrator/Receiver from the Creditor and the list of assets must be added with the initial evidence of debt to two or more creditors whose debts are due and collectible, as well as a stipulation containing permission from the supervisory judge if the applicant is Administrator/Receiver.⁵⁶

The calculation of the down-payment fee is provided automatically by the e-court application. These costs consist of registration fees, processing fees, PNB of Power of Attorney and summons of the parties, stationery, copy costs of lawsuits or applications, three times summons fees, stamp duty, and editorial fees. Payments are made through a virtual account whose code is also provided by the e-court application. Confirmation of payment can be done automatically or manually by uploading proof of payment to the e-court application. If it has been successfully confirmed, the applicant will get a case number that has been registered in the Case Information System (SIP). After completing the litigation, the applicant makes an additional down-payment of court fees electronically through a notification that informs the remaining down-

payment of court fees after the Case Investigation Information System (SIPP) financial journal is closed.⁵⁷ The Suspension of Debt Payment Obligations (PKPU) case registration process is then carried out after the registration is complete by the Young Registrar electronically. Registration is carried out with the stages of table 1 officer logging in to the Case Investigation Information System (SIPP) application using the username and password given by the administrator, then classifying the case and assigning a case number to the Case Investigation Information System (SIPP) application.⁵⁸

The process of summoning the parties and the trial of the Suspension of Debt Payment Obligations (PKPU) Online case is determined to be the same as the general civil case trial process in the Draft Technical Instructions for Amendment to PERMA Number 1 of 2019.⁵⁹ Summons of Suspension of Debt Payment Obligations (PKPU) Applicants or their proxies are carried out electronically. If the Suspension of Debt Payment Obligations (PKPU) Respondent has included its electronic domicile in the application, the summons will be made electronically. However, if not, or if the respondent is not present from the electronic summons, the summons will be made by written letter. The electronic call is called an e-summon and is made through the Case Investigation Information System (SIPP) application and sent to the parties via the e-court application. The use of e-summon for this call and/or notification is free of charge unless the call and/or notification is made by a short message. In making a summons, the bailiff or substitute bailiff sends a summons to the parties electronically based on the order of the judge or chairman of the panel. Technically, the bailiff or substitute bailiff will log in to the e-court application using the username and password provided by the administrator. Before sending the summons, the bailiff or substitute bailiff has previously confirmed the trial schedule, then the letter is sent to the electronic domicile of the parties no later than three days before the trial schedule.⁶⁰

Technically at the initial trial of Suspension of Debt Payment Obligations (PKPU), it is the

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ Ibid.

⁵⁷ Ibid, 32-33.

⁵⁸ Ibid, 34.

⁵⁹ Ibid, 34-35.

⁶⁰ Ibid, 15-16.

same as the general civil case trial process, namely the Judge/Chairman of the Assembly will determine the trial schedule and the agenda for the first trial. The first trial was held in the courtroom according to the schedule. Then the Judge/Chairman of the Assembly will open the trial. At the first trial, Registered Users and Other Users submit and show the original power of attorney and the original application. The Panel of Judges checks the suitability of the documents submitted and shown. If there are parties who cannot show the original power of attorney, or there is a difference between the original power of attorney and the one uploaded to the Case Information System (SIP), the power of attorney uploaded to the Case Information System (SIP) will be used. If what is different is the Suspension of Debt Payment Obligations (PKPU) application letter, the Applicant must re-upload the application as a document for changing the application to the Case Information System (SIP). The Judge/Chairman of the Panel then asked the Respondent for approval to conduct an electronic trial. Online hearings are only carried out with the consenting party. Those who do not agree, they must submit the trial file through PTSP before the trial schedule is uploaded into the Case Information System (SIP). If there is a change to the Suspension of Debt Payment Obligations (PKPU) application, the technical submission is made through the Case Information System (SIP) no later than two days before the trial schedule. The Registrar will record all trial data through the Case Information System (SIP).⁶¹

Proof in the Suspension of Debt Payment Obligations (PKPU) Proceedings Online is carried out by uploading a letter-proof document that is affixed with a seal to the Case Information System (SIP) before the evidentiary trial. If the document to be uploaded exceeds the capacity provided by the Case Information System (SIP), the parties upload it via a link contained in the Case Information System (SIP) and is a medium for storing files online, or can also submit the evidence during the trial. The trial of evidence with witnesses or experts can be carried out remotely through audio-visual communication media (video conference) where all parties can see and hear each other and participate in the trial.⁶²

⁶¹ Ibid, 16-20.

⁶² Ibid, 21-23.

The decision of Suspension of Debt Payment Obligations (PKPU) Proceedings Online is signed with a manual signature by the panel of judges and court clerks and pronounced electronically by the judge/chairman of the trial. The pronouncement of the decision on the Suspension of Debt Payment Obligations (PKPU) Proceedings Online is conducted by uploading a copy of the decision into the Case Information System (SIP). Uploading and pronouncing the decision as well as publication to the public is conducted on the same day and date at the Case Information System (SIP). If the Suspension of Debt Payment Obligations (PKPU) is not carried out online, notification of the decision will be made by registered mail. A copy of the Suspension of Debt Payment Obligations (PKPU) decision is signed by the clerk with a certified electronic signature. The Suspension of Debt Payment Obligations (PKPU) decision text will be uploaded by the clerk into the Case Information System (SIP) and adjusted to the manually signed decision, then the clerk signs the decision text electronically as a copy of the decision. The parties can download the decision by paying PNBP.⁶³

CONCLUSION

The implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online from the beginning of 2020 to 2022 is carried out by looking at the condition of the case and the facilities and infrastructure of the commercial court. The absence of guidelines and technical instructions that regulate the technicalities of trials, creditor meetings, and voting in the Suspension of Debt Payment Obligations (PKPU) Proceedings during the Covid-19 pandemic resulted in the absence of standard procedures in the implementation of Suspension of Debt Payment Obligations (PKPU) Proceedings Online. The non-uniformity and the absence of standard procedures for the implementation of Proceedings Online in the Commercial Court are considered to provide legal uncertainty for litigants, thus giving rise to the need for revisions to PERMA Number 1 of 2019 and the establishment of guidelines for amendments to PERMA Number 1 of 2019.

The Supreme Court has responded to the need for adequate regulations for the implementation

⁶³ Ibid, 24-25.

of Suspension of Debt Payment Obligations (PKPU) Proceedings Online. Since the beginning of 2022, the Supreme Court has made changes to PERMA Number 1 of 2019 and formed technical instructions for the amendment of PERMA Number 1 of 2019 which the preparation is still ongoing until August 2022. However, the Draft Amendment to PERMA Number 1 of 2019 and the Draft Technical Instructions for Amendment to PERMA still has not regulated the technical implementation of creditor meetings and voting on Suspension of Debt Payment Obligations (PKPU) Proceedings Online. In the draft technical instructions for the amendment to the PERMA, it is only regulated that the technicalities of the Suspension of Debt Payment Obligations (PKPU) trial are the same as the general civil trial, even though in the Suspension of Debt Payment Obligations (PKPU) Proceedings there are creditor meetings which are technically conducted online must also have guidelines so that the implementation in each Commercial Court is uniform so that it can provide legal certainty for litigants.

SUGGESTION

In this regard, it is recommended that the Supreme Court be able to regulate the guidelines for conducting creditor meetings in the Suspension of Debt Payment Obligations (PKPU) Proceedings and the implementation of online voting so that there is no legal vacuum and so that the implementation of creditor meetings and voting in the Suspension of Debt Payment Obligations (PKPU) Proceedings Online at the Commercial Court can be carried out uniformly to create legal certainty for the litigants and achieve the objectives of a simple, fast and low-cost trial.

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