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**THE EXISTENCE OF PEACE IN THE BANKRUPTCY PROCESS IS  
RELATED TO THE REJECTION OF PEACE IN DELAYING DEBT  
PAYMENT OBLIGATIONS**

Yuhelson

Jayabaya University, Indonesia

yuhelson.dosen@pascajayabaya.ac.id

**Abstract**

Delay Obligation Debt Payment or furthermore called PKPU is one of them possible efforts taken by the debtor For avoid bankruptcy. Basically, mean from granting PKPU to debtor is so that si existing debtors in circumstances insolvent, having chance for submit something plan peace, fine form offer For debt repayment whole or part on the debt. Therefore, that is, delay obligation debt repayment is chance for is debtor For pay off or carry out his obligations on these debts, so debtor the No until stated bankruptcy.

**Keywords:** bankruptcy, obligation, debt, repayment.

**INTRODUCTION**

Providing PKPU to debtor No forever can avoid middle debtor experience difficulty financial For No become bankrupt . On the contrary , that's how it is debtor given chance delay payment the debt , then fate and future debtor is at in the hands of its creditors . If it turns out to be creditors concurrent and separatist No agree to the peace proposal offered by the debtor , then No There is any other way than do debt repayment with use track bankruptcy ( Ginting , 2018).

There are two ways provided by UUK-PKPU for debtors can spared from threat treasure his wealth liquidated when debtor has or will in is at in circumstances insolvent. The first way is with apply for PKPU or Surseance van Betaling complied term Faillissement verordenen or Suspension of Payment according to term in Language English . The purpose of submitting a PKPU application, according to Article 222 paragraph ( 2) UUK-PKPU is For submit plan encompassing peace offer payment part or all debts to creditor Sjahdeini , 2016).

Bankruptcy No only sourced from something decision the court agreed something application statement bankruptcy filed by the debtor nor creditors , but also from a PKPU process. UUK- PKPU firm has arrange originating bankruptcy from PKPU and there are 7 ( seven ) reasons or possible circumstances result debtor become bankrupt in the PKPU process, namely as following : (Jono, 2010).

1. Debtor No present in trial held Court after decision delay obligation temporary debt repayment be spoken ;
2. Delay obligation fixed debt payments No can determined by the Court because debtor Not yet submit plan peace in the Temporary PKPU or creditor Not yet can give voice they about plan peace ;

3. Time period delay obligation temporary debt repayment ended , because creditor No agree giving delay obligation fixed debt payments or the extension Already given , but until with a fixed PKPU deadline (270 days ) yet achieved agreement to plan peace ;
4. Delay obligation debt payments can be made ending , top Supervisory Judge's request , one or more creditors , or on initiative Court ;
5. Court reject validate peace that has been approved by creditors in the PKPU process;
6. If plan proposed peace debtor rejected by creditors ;
7. If Court cancel something peace that has been confirmed Because debtor negligent fulfil fill agreement peace .

If studied more far away , actually UUK-PKPU is still there give chance to debtor bankrupt For offer something peace in bankruptcy proceedings consequence decision statement originating bankruptcy from the PKPU process. Article 292 UUK-PKPU in full firm has give limitation about decision statement bankrupt who is not can Again For offered something peace and result treasure bankrupt debtor direct is at in circumstances insolvency , that is decision statement bankrupt based on provisions of Article 285, Article 286 or Article 291 UUK-PKPU.

With so, then to decision statement excluded bankrupt from Article 285, Article 286 or Article 291 UUK-PKPU applies provision about bankruptcy including inside it about peace as intended in Chapter II UUK-PKPU, except Article 11, Article 12, Article 13 and Article 14.

The provisions of Article 292 UUK-PKPU are mentioned later connected with provisions of Article 290 UUK-PKPU, then get it interpreted that debtor bankrupt can submit peace in the bankruptcy process , namely among them in matter he refused granting permanent PKPU or the extension and PKPU are terminated on request of the Supervisory Judge, Management, creditors or initiative court . Need become attention that on the second because bankruptcy the debtor of course Not yet submit plan peace or at least if at all Already submitted , of course Not yet done collection vote against him Besides that there are also circumstances or other possible reasons causing PKPU to end with bankruptcy , that is Because he refused plan peace as intended in Article 289 UUK-PKPU. Furthermore is possible in bankruptcy proceedings debtor Then offer something plan peace Again ? In one inner side because bankruptcy This means debtor Already Once submit plan peace and that's it done discussion as well as collection sound , only just No fulfil condition minimum approval amount voice For ratified plan peace. Whereas decision statement bankrupt as intended in the provisions of Article 289 UUK-PKPU, no including in decision statement bankruptcy which prohibits For he offered something peace as provisions of Article 292 UUK-PKPU.

The provisions of Article 292 UUK-PKPU have give rise to problem in practice bankruptcy and PKPU in Indonesia today This . Court as if take two positions different in connection with submission peace in the originating bankruptcy process from the failure peace in the PKPU process. One side , Court Commerce has emit stated decisions that treasure debtor bankrupt is at in circumstances insolvent consequence No achieved peace during the PKPU process However on the side Others , there are also several

circumstances Where Court Commerce start take attitude that Still possible for debtor For submit peace in bankruptcy proceedings although previously has fail reach peace in the PKPU process.

Provisions of Article 289 UUK-PKPU in full firm has arrange that debtor stated bankrupt consequence plan peace rejected by creditors . There are 2 (two) schools of thought in the relevant UUK-PKPU with existence peace in the commencement of bankruptcy proceedings from rejection peace in PKPU. First , that is sect that allows it he submitted Again peace in the commencement of bankruptcy proceedings from rejection peace in PKPU with use corridors and grounds law provisions of Article 290 and Article 292 of UUK-PKPU. Second , viz sects that do not allow he submitted Again peace in the commencement of bankruptcy proceedings from rejection peace in PKPU, where sect This Then confirmed by the Circular Letter Supreme Court Number 5 of 2021 concerning Enforcement Formulation of Meeting Results Pleono Chamber of the Supreme Court in 2021 As Guidelines Implementation Tasks for the Court issued on 28 December 2021 ( hereinafter abbreviated as SEMA No. 5 of 2021), which regulates: “Declared debtor bankrupt consequence plan peace rejected by creditors as intended provisions of Article 289 of the Law Number 37 of 2004 concerning Bankruptcy and Postponement Obligation Debt Repayment does not justified submit Again plan peace.”

## METHOD

This research uses a qualitative approach. In optimizing the research process, the author uses qualitative techniques. Data analysis activities are carried out through the following steps by looking at all the data that has been collected, both through observation, tests and documentation. Discarding data that is not relevant to the research problem, then selecting the data and classifying it based on the researcher's problem . Concluding data, namely making conclusions based on data that has been compiled. The conclusion of this data is then followed by checking the validity of the data.

## RESULTS AND DISCUSSION

### **Existence Peace in Bankruptcy , Starting from Rejection PKPU Peace ( related with the issuance of SEMA No. 5 of 2021)**

Bankruptcy can happen No only sourced from something decision the court agreed application statement late bankruptcy submitted by the Debtor nor Creditors, but also can originate from a PKPU process. UUK-PKPU has arrange there are 7 ( seven ) reasons or possible circumstances result Debtor become bankrupt in the PKPU process.

One of them that is is if plan proposed peace Debtor in the PKPU process it was rejected creditor based on Article 289 UUK-PKPU, and the Supervisory Judge must quick tell rejection That to Court with method deliver to Court plan peace as well as minutes of meetings , and in matter thereby Court must state Debtor bankrupt .

With However, in fact UUK-PKPU still exists provide chance to Debtor bankrupt For offer something peace in bankruptcy proceedings consequence decision statement starting bankruptcy from rejection peace in PKPU. Article 290 UUK-PKPU regulates

that if Court Commerce has state Debtor bankrupt , then to decision statement bankrupt the will applies provision about bankruptcy as intended in Chapter II UUK-PKPU, except Article 11, Article 12, Article 13, and Article 14. In CHAPTER II Part Six Article 144 UUK-PKPU has arrange about peace in bankruptcy proceedings , where Debtor bankrupt entitled For offer something peace to all over creditors .

There is a number of exception to decision statement bankrupt who doesn't get it Again For offered something peace and will cause treasure bankrupt Debtor direct is at in circumstances insolvency , that is if decision statement bankrupt done based on provisions of Article 285, Article 286 or Article 291 UUK-PKPU. With so , then can concluded that to decision statement bankrupt based on the provisions of Article 289 UUK-PKPU which originate from rejection peace in PKPU, then Debtor can offer return plan peace in the bankruptcy process .

However \_ in practice bankruptcy in court Commerce , there are 2 (two) schools of thought in the relevant UUK-PKPU with existence peace in the commencement of bankruptcy proceedings from rejection peace in PKPU. First , that is sect that allows it he submitted Again peace in the commencement of bankruptcy proceedings from rejection peace in PKPU.

The second school , namely sects that do not allow he submitted Again something peace in the commencement of bankruptcy proceedings from rejection peace in PKPU, where sect This Then confirmed by SEMA No. 5 of 2021 point B.2 ., which regulates : “ Declared debtor bankrupt consequence plan peace rejected by creditors as intended the provisions of Article 289 UUK-PKPU do not justified submit Again plan peace .”

Therefore that , counts since end in 2021 every the judge case Bankruptcy and PKPU as well as meetings creditor in the PKPU process in court Commerce , based on observation researcher both Commercial Judges who heard it case Bankruptcy and PKPU as well as Supervisory Judges in meeting creditor always confirm that Debtors who have stated bankrupt consequence rejection scheme peace in the PKPU process, then Debtor No permitted can submit Again plan peace in the bankruptcy process based on SEMA No. 5 of 2021. Based on Law no. 15 of 2019 concerning Change Law no. 12 of 2011 concerning Formation Regulation Legislation , UUK-PKPU incl types and hierarchies legislation , because formed by the House of Representatives with agreement together President and shape regulation written documents containing binding legal norms in a way general and established or determined by state institutions or authorized official through established procedures in Regulation Legislation .

Meanwhile, Circular Letter The Supreme Court can categorized as as one of the form regulation legislation made based on authority something institution . Formation of SEMA itself originate from authority Supreme Court for request information and provide instruction to courts in all environment Justice below it . SEMA is located below law , no equivalent or more tall from Constitution . SEMA only tie to in environment Justice just . Constitution is rule law highest under the 1945 Constitution as well powerful tie to all over Indonesian citizens .



By whole No There is found fill or provision in CHAPTER III UUK-PKPU concerning Delay Obligation Regulating Debt Payments prohibition for declared debtor bankrupt consequence plan peace rejected by creditors as intended provisions of Article 289 UUK-PKPU for submit Again plan peace . Decision Statement Bankruptcy is not can offered Again something peace is Decision Statement Decided bankruptcy based on the provisions of Article 285, Article 286 or Article 291 which result treasure bankrupt debtor direct is at in circumstances insolvency .The existence of SEMA No. 5 of 2021 which regulates “ declared debtors bankrupt consequence plan peace rejected by creditors as intended the provisions of Article 289 UUK-PKPU do not justified submit Again plan peace ” . No contain clarity and give rise to multiple interpretations with consideration as following :

1. SEMA No. 5 of 2021 has contradictory with more rules high on in matter This the provisions of Articles 290 and 292 of the UUK-PKPU become base law on peace in initiating bankruptcy from rejection peace in PKPU.
2. SEMA No. 5 of 2021 no explain in a way detailed , whether Decision Statement Bankrupt as intended provisions of Article 289 UUK- PKPU addressed to PKPU application submitted by the debtor or to PKPU application submitted debtor .

## CONCLUSION

The lack of uniformity in the handling of bankruptcy and PKPU cases, especially regarding the implementation of peace in the bankruptcy process, which began with the rejection of peace in PKPU, has created legal uncertainty. The UUK-PKPU only provides limits on the decision to declare bankruptcy based on the provisions of Article 285, Article 286 or Article 291 where peace can no longer be offered, while the decision to declare bankruptcy due to the rejection of the peace plan in the PKPU based on the provisions of Article 289 of the UUK-PKPU is not regulated.

It is necessary to review the laws and regulations regarding bankruptcy and PKPU, whose position is under Law no. 37 of 2004 in order to create harmonization and synchronization of laws and regulations, especially regarding SEMA No. 5 of 2021 which regulates the prohibition on bankruptcy debtors from re-submitting a peace plan as a result of the decision to declare bankruptcy as intended by the provisions of Article 289 UUK-PKPU, because UUK-PKPU only provides limitations on the decision to declare bankruptcy based on the provisions of Article 285, Article 286 or Article 291 which do not peace can be offered.

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