



THREAT OF BANKRUPTCY DUE TO TERMINATION OF EMPLOYMENT DUE TO THE COVID-19 PANDEMIC

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ABSTRACT

One of the consequences of the covid 19 pandemic is that many companies are forced to lay off their employees and make job cuts. The problem is whether the company is allowed to terminate the employment relationship on the grounds of Covid-19 and whether the company can be bankrupt because it is unable to carry out its obligations to its workers. The research method used is lying research using secondary data in the form of primary legal materials, secondary legal materials and tertiary legal materials. Research is normative juridical and the type of research is qualitative. Conclusion, the company can terminate the employment relationship during Covid-19 on the grounds of Overmacht, if the company can prove that due to the covid-19 pandemic it is no longer able to carry out its obligations towards workers/ laborers. Companies that are unable to fulfill their obligations to their workers can be declared bankrupt and the assets of the seized company are subsequently sold, auctioned for the payment of the rights of the workers who are prioritized for payment. meaning is to identify and conceptualize the law as a real and functional social institution in a patterned living system.

INTRODUCTION

The covid-19 outbreak started from Wuhan, one of the regions in China, which then spread to many countries in the world, including Indonesia. The covid-19 outbreak that hit many countries in the world includes global problems that have a negative impact on the economic deterioration of the community, a nation that has decreased dramatically. The covid-19 outbreak that hit the world from March 2020 until now, including Indonesia, has had a negative impact on many people's lives, including the economic sector, the tourism sector . the transport sector has decreased dramatically.

People who work in the industrial sector as workers or laborers in an industrial enterprise. The decline in company turnover caused by weakening people's purchasing power caused by Covid-19 resulted in job cuts. The government implemented large-scale social restrictions and implemented physical distancing causing in order to break the chain of the spread of Covid-19, companies had to lay off several workers and even companies had to terminate their employment unilaterally because they were no longer able to carry out their obligations in accordance with the provisions stipulated in the employment agreement. Although under any circumstances the company should be

subject to and comply with the rules or normative applicable where a business process where its implementation focuses on the principle of Justice.

The threat of the Covid-19 pandemic is that many companies have unilaterally terminated their employment relationships. In the labor law, the company may not terminate the relationship unilaterally, if the worker / laborer complies with the obligations stipulated by the labor agreement, labor agreement and company regulations.. However, the reality of the Covid 19 pandemic has been that many companies have terminated their employment on the grounds that they are no longer able to fulfill the rights of workers / laborers.

With the unilateral termination of employment by the company there is a default of the employment agreement caused by the company is unable to carry out its obligations in accordance with the provisions set out in the employment agreement. With the default of the employment agreement due to Covid-19, there is an obligation for companies to workers /laborers. The obligation of the employer is a debt that must be paid by the employer to the worker / laborer who keeps the company's position as a debtor or as a party that must perform the performance, while the position of the worker/laborer is as a creditor as a party entitled to the performance.

With the Covid-19 pandemic, it is possible that the company can be insolvent due to the company being unable to pay its overdue debts. Based on the debt repayment and postponement Act, which is hereinafter abbreviated as UUKPKPU, the company can be bankrupt if the company has two creditors and at the time of payment, none of the debtors are unable to pay their overdue debts.

The Covid-19 pandemic that hit the world since the beginning of March and still lasts until and cannot be determined with certainty when it ends. The Covid-19 pandemic is a global problem that cannot be predicted to occur that brings many negative impacts on many sectors of people's lives.

One of the worst sectors due to the Covid-19 pandemic is the worst economic sector of society and the state. The company as the driving wheel of the economy of the community that is no longer able to carry out the production process causes the company to terminate the unilateral employment relationship carried out by the company, the company is no longer able to carry out the production process, so that the company loses its income decreases drastically causing the company is no longer able to pay its credit to the bank so that there are bad loans. The condition of the company that is unable to pay its debts to the bank and the

obligations to be paid by the company to workers/ laborers has the impact that the company is threatened with bankruptcy.

METHOD

The research method used in the writing of this article is literature research using secondary data in the form of primary law, secondary law materials and tertiary materials. Primary legal materials in the form of legislation relating to Law No. 23 of 2003 on Labor and Law No. 34 of 2007 on bankruptcy and postponement of debt payment obligations and the Civil Code.

While the secondary legal material consists of books, expert opinions relating to Labor Law, treaty law and Bankruptcy Law. Tertier legal materials in the form of legal dictionary and Indonesian dictionary. The data obtained from the results of literature research in the form of secondary data is analyzed systematically scientifically to answer the formulation of the problem. Research is normative juridical and qualitative type of research.

RESULTS AND DISCUSSION

A. Bankruptcy Law Rules Against Termination Of Employment During The Covid 19 Pandemic.

Covid-19 is a virus that originated from Wuhlan in one of the regions in China. The spread is very fast and is a deadly virus that has claimed many lives both medical personnel and members of the public as ordinary people, state officials and heads of State have not spared being victims of Covid-19. The covid-19 outbreak is a global problem that has been infected in many countries including major countries in the world , such as the United States, Germany, Inggris, Russia. The Covid-19 Virus initially started from Wuhan, one of the regions in China, which then passed quickly to several countries in the world, including Indonesia. Various ways are carried out by countries in the world, including Indonesia, in order to prevent and cut off the spread of Covid - 19.

To prevent and break the chain of the spread of Covid-19 the Indonesian government issued several regulations, including Perpu Number 1 of 2020 on State Financial Policy and financial system stability for handling the Corona Virus Disease 2019 (Covid-19) pandemic and/or in order to deal with threats that endanger the national economy and/or financial system stability. President Joko Widodo issued Perpu Nomo 1 of 2020 with the consideration that: the spread of Corona Virus Disease 2019 (Covid-19) declared by the World Health Organization (World Health Organization) as a pandemic caused many

casualties, material losses implicated in social, economic, and public welfare aspects. The Covid-19 pandemic has led to a slowdown in national economic growth, a decrease in state revenues and an increase in state spending and financing, so that various government efforts are needed to save health and the national economy, as well as economic recovery, including for businesses and communities affected.

Government regulation number 21 of 2020 on large-scale social restrictions (PSBB). What is meant by PSBB is the restriction of certain activities of residents in an area suspected of being infected with Covid-19 to prevent its spread. PSBB apply 14 days and can be extended within the next 14 days from the discovery of the last case.

Presidential Decree No. 7 of 2020 on the Covid-19 handling acceleration cluster headed by The Disaster Management Agency (BNPB) and Permenkes No. 9 of 2020 on large-scale social restrictions (PSBB). The scope of the PSBB contained in the regulation of the Minister of health of the Republic of Indonesia number 9 of 2020 includes school and workplace leisure, public facilities, except supermarkets, minimarkets, markets, shops, places of sale of medicines and medical equipment, as well as basic necessities, social and Cultural Activities, Prohibition of crowds, political meetings, Sports, Entertainment, academic, and cultural, modes of, defense and security aspects except, defense and security activities to enforce state sovereignty, territorial integrity, and protect the nation from the threat of interference, as well as realizing security and public order.

Regulation of the Financial Services Authority (POJK) number 11/POJK.03/2020 on National Economic Stimulus was issued as a policy on the impact of the spread of the Corona virus. POJK was issued to reduce the impact on the performance and capacity of debtors that are expected to decline during the Covid-19 pandemic (Republika co.id, accessed April 4, 2020). National economic Stimulus is given to debtors ranging from MSMEs, industries, informal workers. Bank credit customers can apply for credit relief, extension of loan installment period, reduction of principal arrears, interest arrears, addition of credit/ financing/ conversion Credit Facilities, Time Allowance to pay principal or interest installments. The policy is not given to abolish credit. Credit restructuring is given to debtors affected by the Covid-19 virus such as online motorcycle taxis, public transportation drivers, fishermen and, the MSME sector.

MUI Fatwa number 18 of 2020 states that the management of the body, especially bathing and flanking, must be done according to medical protocols carried out by the authorities while paying attention to sharia (religious law) (Ahmad Faiz Ibnu Sani, Tempo .com, May 2020). As for praying and burying it, it is done as usual while maintaining (tasks and pentakziah) so as not to be exposed to Covid-19.

Information of the National Police Chief number Mak/2 / III / 2020 on compliance with government policies in handling the spread of the Corona Virus. The contents of the Police Chief's information, among others, did not hold social activities that led to mass gatherings in large numbers. Stay calm and not panic and further increase vigilance in their respective environments, following government information and appeals. In urgent circumstances, it is carried out while maintaining distance and is obliged to follow government procedures. Not make excessive purchases and / or stockpiling of basic needs and other community needs. Not influenced and spread the news with unclear sources that cause public unrest (Hoax). If there is unclear information to contact the local police.

The information letter number 02/MLM/1.0/H/2020 about the Covid-19 virus outbreak and the letter number 03/1.0/B / 2020 about the implementation of JU'mat prayers and obligatory prayers in congregation when Covid-19 hit. Muhammadiyah took several decisions based on Islamic values in the Qur'an and Hadith, the current emergency condition If until Ramadan and Shawwal the covid-19 outbreak still does not decrease, then, Tarwih prayers and other Ramadan activities, such as religious lectures, tadarus in congregation, iktikaf and other activities in congregation are carried out at home. Fasting is still done except for people who are sick and immune conditions are not good can provide it according to the Shari'a. If Covid-19 has subsided the Eid prayer and the series can be carried out while still paying attention to the instructions issued by the authorized official.

The government has made various efforts to prevent and break the spread of the Covid chain 19 by issuing regulations as mentioned above. But the fact is that there are still many people whose behavior is less concerned with regulations or appeals that have been determined by the government, among others, violations of the implementation of Psbbthe speed of preventing the spread of Covid-19 determined by the government has not been successful, because until now the spread of Covid-19 has been found even though in

some regions it has been declared a green zone because the number of covid-19 spread has skyrocketed, decreased to below 1% and there is not even an increase in Covid-19 victims.

An effective and powerful way to break the chain of the spread of Covid-19 is for every member of the community to get used to living healthy, avoiding crowds, staying at home and if it is necessary to leave the house to follow health protocols such as, keeping a distance, using masks, wearing gloves and washing hands often.

The behavior of people who do not obey the law and do not discipline themselves to obey and obey the rules made by the government. There are still many people who commit violations, between not adjusting the distance in crowded places, not using masks if out of the house, the use of private vehicles with the number of people not exceeding 50% of what should be. The culture of our society, which does not obey the law, does not discipline itself, has a great effect on prevention efforts and breaks the chain of the spread of Covid-19.

The company's turnover has decreased drastically impact on income which also decreased drastically. The company was forced to lay off some of its employees or work from home and even the company was forced to make a termination, because it was no longer able to perform its achievements on its workforce. One of the retailers in the Depok area immediately terminated the employment of workers permanently because they were unable to survive due to the Covid-19 pandemic.

Various ways and efforts are made by various countries in the world, including in Indonesia, in order to cut the eyes of the spread of Covid-19. The Indonesian government issued several regulations to prevent and break the chain of the spread of Covid-19. However, the regulation in reality there are still many people who violate it, so that the Covid-19 pandemic is still increasing, although for some regions in Indonesia Covid-19 victims are sloping and tend to decrease and there is no stoicism of new victims.

In addition to implementing a healthy life so that every member of the community to always follow the health protocols set by the government, among others, avoid crowds, stay at home and if it is necessary to have to leave the house in order to always follow the health protocol always keep a distance, use masks, wear gloves, often wash hands and if using private vehicles to regulate the number

of passengers does not exceed 50% of the supposed number of passengers.

The behavior of people who do not obey the law and do not discipline themselves, if they are outside the home and do not follow the regulations and appeals made by the government is still found to be a violation of the law. Violations of the law committed by the community, among others, do not regulate the distance in crowded places, do not use masks if out of the house, the use of private vehicles with the number of people do not follow the rules that are 50% of the number of passengers that should be. The culture of our society, which is not law-abiding, does not contribute greatly to the spread of Covid-19.

The Covid-19 problem is a common problem that must be addressed together. The impact of the Covid-19 outbreak, which on the economic sector of society and the state, is very felt at all, causing new social problems for the prohibition to hold activities that invite many people, unemployment rates are increasing due to many companies making job cuts, because they are unable to survive running their business in the midst of the Covid-19 pandemic. New social problems arose, the increase in unemployment due to the termination of employment, the emergence of new Poor People due to Covid-19.

Cooperation agreement with the agreement in general must meet the valid terms of the agreement contained in Article 1320 of the Civil Code, the valid terms of the agreement contained in Article 1320 of the Civil Code must meet the elements of agreement, proficiency, certain things and a lawful cause. Proficiency and agreement is a subjective requirement means that the party entering into an agreement must be legally competent and the agreement should not have an element of coercion in making an agreement . If the subjective conditions are not met in making an agreement, then the agreement can be canceled.

While the elements of " certain things "and" a lawful cause " are objective conditions of the validity of an agreement. "Certain thing" means that the object of agreement must be clearly definable. The object of the agreement that is not clear or the goods do not yet exist or new will exist is null and void or void by itself. Null and void or void by itself to cancel the agreement is not required there is a party to cancel it but by itself the agreement is null and void.

An agreement that has fulfilled the subjective and objective conditions contained in Article 1320 of the Civil Code, the agreement becomes valid and legally

binding for the parties who make it . A work agreement must meet the subjective and objective conditions of the validity of an agreement.

During the Covid-19 pandemic, many companies were affected, so that companies were no longer able to fulfill obligations to workers/laborers as stipulated in the employment agreement. How is the legal force of the entry into force of existing work agreements with the occurrence of the Covid-19 outbreak. The Covid-19 pandemic has had a negative impact on the company. Companies that can no longer carry out the production process normally or the decline in the production process causes the company's turnover according to dratis. The company is no longer able to pay the salary of its workers and give the rights of the workers as specified in the employment agreement.

The Covid-19 pandemic, which caused companies to make mass, large, large cuts, caused new social problems, causing an increase in unemployment among the community. Termination of employment unilaterally, laying off workers / laborers, reducing the rights of employees that should be received, rarely taken by the company is no longer in accordance with the work agreement that has been agreed. During the covid-19 outbreak, many companies have been unable to carry out achievements against work agreements, resulting in defaults due to the Covid-19 pandemic. Labor law companies are prohibited from termination except for the reasons justified by the law whether the Covid-19 pandemic allows companies to terminate their employment. The Covid-19 pandemic caused the company to be unable to perform its achievements , resulting in default. Termination by the employer should only be temporary because the covid-19 outbreak is also temporary. Companies may make temporary termination during the Covid-19 outbreak. But when the condition returns to normal, the company should re-employ its workforce. Companies do not have to terminate but can lay off temporary labor or reduce some of the rights of their workers. In the face of such conditions the company should not take a one-sided attitude but should discuss with the Union, rare-steps to be taken and mutually beneficial to both parties (win-win solution).

B. Termination of employment due to the Covid 19 pandemic in review of the bankruptcy law

The company may not terminate the employment relationship, if the worker / laborer performs and complies with its obligations stipulated in the

employment agreement . In Law No. 13 of 2003 on employment, termination of employment (layoff) can be done because of self-resignation of the worker, the worker is detained by the authorities and the worker dies and the worker commits an offense (Erica Gita Mogi, Les Adminstratum, Mar-Apr Vol .V / No.2/ 2017). The labor law does not specify the reason for termination due to Pandemic reasons.

During the Covid-19 pandemic, many companies are unable to carry out their obligations, although workers/laborers do not violate labor agreements, but due to Overmach reasons or circumstances forcing the occurrence of Covid-19 cannot be predicted to occur at the time of making agreements. Termination of employment is allowed if with the covid-19 outbreak the company is no longer able to carry out its obligations to workers/laborers. Termination of employment obligations of the company continue to provide what constitutes the rights of the worker, for example, severance pay is still given in accordance with the provisions of the legislation. However, if the company is unable to provide severance pay stipulated in the laws and regulations –an invitation to pursue a mediation or mutually beneficial peace settlement by holding a meeting with the workers/laborers. In a mediation/ peace settlement the workers / laborers can be represented by Trade Unions/ Trade Unions.

In Law No. 13 of 2003 on employment, termination of employment by the employer is regulated in Article 158, article 163-165. Termination of employment by the employer can be done for the following reasons: First, the worker/laborer has made a gross mistake, second. the occurrence of changes in status, merger, merger and change of ownership of the company and workers or workers are not willing to continue work, third, the company closed because the company suffered continuous losses for 2 (two) years, or force majeure circumstances, the company did efficiency, the company bankrupt, workers/ workers entering retirement age. Workers / workers who are terminated are entitled to receive severance pay.

Termination carried out by the company on the grounds of the Covid-19 pandemic can be categorized as termination of employment on the grounds of circumstances forcing Overmacht/Force Majeur. Force majeure is a situation that occurs outside the power of siberhutang and the circumstances can not be known at the time the agreement is made, siberhutang not bear the risk, if it can prove the existence of force circumstances.

The Covid-19 pandemic caused the company to be unable to carry out its achievements, so the work agreement that had been made caused the company to default. The default committed by the employer/ employer cannot be suspected at the time of making an agreement that there will be an outbreak of Covid-19. The occurrence of default due to Covid-19 reasons the termination of employment by the company on the grounds of Covid-19, the company still wins the risk, because the default caused by Covid-19 includes the relative nature of overmach. Overmacht which is relative, the party who defaulted in this case the company still wins the risk due to the default is to provide severance pay to the workforce/ workers who are terminated.

Companies that terminate their employment must be able to blind with the Covid-19 pandemic, the company's turnover has drastically decreased, so that the company is no longer able to continue the production process and carry out the obligation to fulfill what is the rights of workers/ laborers. If the company cannot prove that the company was affected by the Covid-19 outbreak, the company must not terminate the employment relationship. Labor law prohibits companies from making terminations without grounds justified by law.

Termination of employment by the employer on the grounds of Overmacht during the Covid-19 pandemic is able to abort the employer/ employer's obligations to the rights of workers/laborers. Circumstances force (overmacht) there are relative (temporary) and there are absolute (absolute) (Subekti: 2001: 58). Termination of employment by an employer / employer during the Covid-19 pandemic includes termination of employment by reason of relative (temporary) overmach not including absolute overmacht. Termination of employment during the Covid-19 pandemic does not exempt companies from granting what is the right of workers, including severance pay.

The Covid-19 pandemic is only temporary, the work agreement still exists if the Covid-19 pandemic has passed, then the work agreement can be resumed. It is better that during the Covid-19 pandemic the company does not make a permanent termination, but does a temporary termination until the covid-19 outbreak is declared to have sloped to zero there are no new cases anymore. Companies to be more humane in taking such attitudes, to temporarily lay off workers or keep working from home by reducing some of the rights of workers, among others, do not provide transport money, do not provide bonuses and do not provide overtime. But if the situation has returned to normal to re-employ the workforce by

giving all the rights of workers that have been stipulated in the employment agreement .

Therefore, employers / employers before making a termination on the grounds of covid-19, should first discuss with workers/ laborers or trade unions the work agreement that has been agreed because of Covid 19 make a new work agreement adapted to the conditions of Covid-19. The employer/ employer does not actually have to terminate the employment relationship due to the Covid-19 pandemic, because in the labor law it is also regulated that the employer / employer cannot terminate the employment relationship if it is not in accordance with the provisions of the law. A contract does not always end because of the Covid-19 pandemic, judging by the case. Companies that lay off for Covid-19 reasons are allowed due to a decrease in the economic capacity of companies that are unable to meet their obligations towards their employees.

During the Covid-19 pandemic, companies do not have to terminate their employment relationships, companies can lay off workers/laborers for the equivalent time, or reduce part of the rights of workers/laborers, for example, because work is done at home to workers not given transport money, not given overtime pay, not giving bonuses, money will still be given because workers/ laborers in work need food and drink or transport money is replaced with quota money, because workers/laborers work using quotas. If the company is not able to provide holiday allowances are not given. It is better that during the Covid-19 pandemic companies do not have to cut labor relations, but they can reduce some of the rights of workers until the company recovers normally.

Therefore, the government must supervise and take action on companies that make job cuts on the grounds of Covid-19, in the event that the company is still able to provide some workers/ labor rights. However, if in reality the company is not able to carry out its obligations to provide the rights of workers/ laborers it must be proved that there has been an absolute overmach which causes the company is no longer possible to continue its business, so the termination of employment for good. Companies that terminate the employment relationship absolutely forever and are unable to to grant workers rights due to termination of employment, the company may be bankrupt. Interested parties in this case workers can apply for palit against companies that have made termination. With the bankruptcy of the company, it is expected that the rights of workers can be given from the sale of the assets of the company that is being bankrupt. Workers ' rights as the preferred

creditor take precedence in the fulfillment of their rights compared to other creditors.

The Covid - 19 pandemic caused many companies to terminate their employment because economically the company is no longer able to bear the burden of fulfilling the rights of workers /workers of the company, under these conditions to fulfill the rights of workers, the company can be submitted for bankruptcy. Because tidan able to fulfill the obligation to provide the rights of workers / laborers. Law No. 37 of 2004 on bankruptcy and postponement of debt payment obligations hereinafter abbreviated as UUKPKPU. Article 1 uukpkpu States Bankruptcy Is a general confiscation of the wealth of Palit debtors whose management and ordering is done by the curator under the supervision of the supervisory judge.

Based on Article 1 uukpkpu can be concluded, the elements of the headings are: general confiscation, is the seizure or the entire property of the insolvent debtor. Article 21 uukpkpu States, "headedness covers the entire wealth of the debtor at the time the decision of the bankruptcy statement is pronounced as well as everything obtained during bankruptcy". Termination of employment by the company during the Covid-19 pandemic, where the company can no longer fulfill the rights of workers due to termination of employment, then workers as creditors can apply for bankruptcy against the company. With the application for bankruptcy, all assets of the company as a debtor will be foreclosed and the management is carried out by the curator. The judge of the Commercial Court will declare bankruptcy if the company is no longer able to fulfill its obligations to the rights of workers.

As a result of the bankruptcy decision, all confiscated property will be sold, auctioned and the money used to pay the rights of workers/ laborers who are owed by the company, first to the wealth of the bankruptcy debtor. Headings directed against property not against the debtor's personal. The bankruptcy is the property of the debtor company palit. Bankruptcy assets also called bankruptcy boedel sold, auctioned to meet the obligations of the company as a bankruptcy debtor to workers / laborers as bankruptcy creditors. Management and management of the bankruptcy boedel is done by the curator appointed by the supervisory judge and the supervisory judge oversees the task of the curator in managing the bankruptcy boedel. From the moment of the bankruptcy declaration the debtor loses the right to manage and control his property Article 24 paragraph (1) uukpkpu States "the debtor by law loses his right to control and manage his property which is included in the

bankruptcy estate, from the date the decision of the bankruptcy statement is pronounced.

There is a supervisory judge, the second duty of the supervisory judge in the head of the debtor is to supervise the management and control of the property of the bankrupt debtor by the curator. Termination of employment by employers / employers during the Covid-19 pandemic does not eliminate the company's obligation to provide employees with rights, such as unpaid salaries, severance pay. If the company does not provide what constitutes the rights of the worker/ laborer then the worker/ laborer can file a bankruptcy application against the company.

In the bankruptcy law, the company can be declared bankrupt if the debtor has at least two creditors and at the time of payment, none of the debtors are unable to meet their overdue debts (Article 2 Paragraph (1). Companies that terminate employment during the Covid-19 pandemic can be bankrupt, because companies that are unable to fulfill employee rights are more than a debt that must be paid to workers/laborers. All the assets of the company that is insolvent including the bankrupt boedel can be confiscated, sold which is then used for payment of the company's obligations to workers / workers due to the termination of employment.

Interested parties in this case workers / workers who are terminated can apply for bankruptcy against the company to the Commercial Court. The workers / laborers can be represented by a legal representative who can be appointed by the union representing the workers/laborers. The bankruptcy petition filed by the worker/ laborer is an effort to fulfill the rights of the unpaid worker by the bankrupt company. The rights of workers / laborers include severance pay, old age allowance, unpaid salaries and other rights of workers/ laborers regulated in the legislation.

The company can be declared bankrupt necessarily through a court decision. Under Article 2 of the UUKPKPU, the party who can apply for bankruptcy for a debtor is the debtor concerned, creditors or creditors, attorney for public interest, Bank Indonesia if the debtor is a bank, Minister of finance if the debtor is an insurance company, reinsurance company, pension fund or state-owned enterprises engaged in the public interest.

Based on Article 2 of the above UUKPKPU, companies that terminate their employment due to Covid-19 may be filed for bankruptcy. Bankruptcy application can be submitted by the company as a debtor who submits according to the type of company as stated in Article 2 of UUKPKPU.

In addition, money can apply for bankruptcy is creditors or creditors can be filed by workers/ laborers who can be represented by the union or its legal power.

The procedure for applying for bankruptcy is regulated in Article 6 and Article 7 of the UUKPKPU. The application for the headings is submitted to the Commercial Court. Under the circumstances the Commercial Court may call the debtor. Bankruptcy application can be granted if the debtor has a minimum of two creditors and at the time of maturity none of the debtors can not meet the debt (Article 2 Paragraph (1) UUKPKPU. During the bankruptcy process, all company assets are confiscated and under the supervision and management of the curator appointed by the supervisory judge. The supervising judge oversees the duties of the curator.

The company declared bankrupt caused new legal consequences. based on Article 21 UUKPKPU states, that the headings include all assets of Insolvent Debtors and all assets acquired during the headings. Since the date of the bankruptcy decision, the debtor loses his right to control the management of his wealth, which includes the Bankruptcy Board. The management of the bankruptcy boedel is carried out by a curator appointed by the supervisory judge.

Before the Palit decision is passed, the company can apply for a delay in debt repayment obligations or obligations to workers/ laborers. This can be done by entering into peace between the company as a debtor with workers/workers as creditors. Creditors form a temporary creditor team to make peace. If peace can be realized, then the bankruptcy verdict is not declared. Conversely, if peace cannot be realized, then the bankruptcy verdict must be required. As a result of the bankruptcy decision on the employment agreement regulated in Article 39 UUKPKPU states that, workers working on debtors can terminate employment relationships. From the date of the declaration of bankruptcy the wages payable before and after the declaration of bankruptcy is pronounced are debts of insolvent property. Workers ' rights received and expressed in the form of money in return from the employer to the worker or a job or service that has been or will be performed, determined, paid according to an employment agreement, agreement or according to the laws and regulations including benefits to be paid to pekeja or his family.

So the company's termination during the Covid-19 pandemic can be declared bankrupt if the company is no longer able to fulfill its obligations to workers ' rights. Since the decision of the bankruptcy

declaration against the company caused new legal consequences for the company. The rights of workers that have not been paid by the company in accordance with the employment agreement or legislation are debts from the employer to the worker or his family. Companies declared bankrupt boedel seized bankruptcy is then auctioned, sold to pay the company's obligations to the worker or his family. The right of workers is the right of precedence in the fulfillment of the bankruptcy module .

CONCLUSION

Termination of employment by companies during the Covid-19 pandemic is allowed on the grounds of overmach or coercive circumstances. Termination of employment on the grounds of Covid-19 the company must be able to prove that with the Covid-19 pandemic, the company's turnover has decreased drastically, the production process has decreased, so that the company is no longer able to survive and finance the production process and carry out obligations to workers/ workers specified in the work agreement. Forced circumstances (Overmacht) because Covid-19 is only reactive (temporary), namely during the Covid-19 pandemic. If the Covid-19 pandemic has ended, then the employment agreement can be resumed. However, if the company cannot prove that the Covid-19 pandemic has not had a bad impact on the company, then the company should not make a permanent or permanent termination.

REFERENCES

- Abdullah, Frieda Husni, *Hukum Kebendaan Perdata*, Jakarta, Ind- Hiil Co, (2005)
- Abdurrahman, Soejono, *Metode Penelitian Hukum*, Jakarta, RinekaCipta, (2003).
- Abdussalam, HR, *Hukum Ktenagakerjaan*, Jakarta, Restu Agung, (2008).
- Aminah, *Pengaruh Covid-19 Terhadap Pelaksanaan Perjanjian*, Diponegoro Private Law Review Vo.7 No.1 Februari (2020).
- Amiruddin, dan H. Zainal Asikin, *Pengantar Metode Penelitian Hukum*, PT. Raja Grafindo Persada, Jakarta.2002
- Azis, Abdul, Aan Handriani, and Herlina Basri. "PERLINDUNGAN HUKUM HAK PEKERJAPADA PERJANJIAN KERJA WAKTU TERTENTUDALAM KETENAGAKERJAAN." *Jurnal Surya Kencana Satu: Dinamika Masalah Hukum dan Keadilan* 10.1 (2019): 59-74.
- Erica Gita Mogi, *Perlindungan Hukum Terhadap Tenaga Kerja yang di PHK Sepihak oleh*

- Perusahaan Menurut Undang-Undang Nomor 13 Tahun 2003 tentang Ketenagakerjaan*, Jurnal Lex Administratum, Vol V/ No.2/ Mrt-Apr/(2017).
- H.Man S Sastrawidjaja, *Hukum Kepailitan dan Penundaan Kewajiban Pembayaran Utang*, Bandung, PT.Alumni, (2006).
- Hamidi, S Gayo, A Sitompul. (2021). Juridical Analysis on The Procurement Of Goods/Service Of The Government To Realize Good Governance (Research Studies In The Department Of Human Settlement and Layout Batam City). International Journal Of Research and Review 8 (11),
- Iustika Puspita Sari, Ahyuni Yunus, *Tanggung Jawab Perusahaan Terhadap Pemenuhan Upah Pekerja dalam Proses Pemberesan harta Pailit*, Jurnal Magister Ilmu Hukum Udayana (Udayana MasterLaw Journal) 8 (3), 403-413, (2019).
- Kitab Undang-Undang Hukum Perdata Marzuki, Peter Mahmud, *Penelitian Hukum*, Jakarta. Kencana PrenadaMedia group, (2004).
- Lalu Husni, 2009, *Hukum Ketenagakerjaan Indonesia*, PT. Raja Grafindo Persada, Jakarta.2009.
- Munir Fuady, 2005, *Hukum Pailit dalam Teori dan Praktek*, PT. Citra Aditya Bakti, Bandung.2005.
- Putusan Mahkamah Konsitusi Nomor : 67/PUU-XI/2013.
- Siti Fitria Nur Nafika, *Studi Tentang Tanjung Jawab Perseroan Terbatas yang Divonis Pailit Terhadap Hak Pekerja*, (Samarinda : Jurnal Baraja Niti, 2014), hlm. 6-7.
- Sitompul, A, P Hasibuan, M Sahnann. (2021). The Morality Of Law Enforcement Agencies (Police, Prosecutor's Office, KPK) In Money Laundering With The Origin Of The Corruption. European Science Review 9 (10)
- Sitompul, A. (2020). The Criminal Replacement Of Fine In Law Of Money Laundering Number 8 Of 2010 (Case Study In North Sumatera). International Journal Of Creative Research Thoughts, 8 (11).
- Sitompul,A , & Sitompul, M. N. (2020, February). The Combination Of Money Laundering Crime With The Origin Of Narkotics Crime To Islamic Law. In Proceeding International Seminar of Islamic Studies (Vol. 1, No. 1)
Subekti,*Hukum Perjanjian,,* Jakarta, Intermasa, (2001).
- Suhandoko, *Hukum Perjanjian Teori dan Analisa Kasus*, Jakarta, Kencana Prenada Media Group, (2009).
- Undang Nomor 37 Tahun 2004 tentangKepailitan dan Penundaaan Kewajiban Pembayaran Utang.
- Undang-Undang 37 Tahun 2004 TentanKepailitan dan Penundaan Kewajiban Pembayaran Utang
- Undang-Undang Nomor 13 tahun 2003 Tentang Ketenagakerjaan
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