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REQUIREMENTS FOR APPLICATION FOR CANCELLATION OF PEACE AND ANALYSIS OF DECISION CONCERNING CANCELLATION OF PEACE

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Abstract: This writing intends to examine the judge's ruling on the terms of the peace annulment application. The key focus and main objective of the Suspension of Debt Payment Obligations revolve around the Settlement process, aiming to achieve a peace proposal in accordance with Article 281 of the Bankruptcy and Postponement of Debt Payment Obligations Law, commonly referred to as Law Number 37 of 2004. This occurs within the framework of the Commercial Court's management of the Suspension of Debt Payment Obligations case. If the debtor fails to keep their promise or fulfill the terms of the peace agreement, there is a legal solution to request the annulment of the peace. This research employs a normative juridical method with a descriptive-analytical approach to comprehensively and deeply describe the circumstances or symptoms studied in relation to the conditions for peace annulment applications and the application of these conditions to Decision Number 2/Pdt.Sus-Cancellation of Peace/2023/PN.Niaga Sby Jo. Number 69/Pdt.Sus-PKPU/2020/PN.Niaga Sby. It can be analyzed from the research that the regulations for requesting the annulment of a peace agreement are already established in Law Number 37 of The Year 2004. Article 170, along with Article 171 and Article 291 of the same law, forms the legal basis for the request, specifically addressing issues related to bankruptcy and the postponement of debt payment obligations.

Keywords: Debt Payment; Peace; Terms of Cancellation.

I. INTRODUCTION

In the process of economic activity, society cannot be separated from the implementation of debt-receivable activities. These debts have functions, including to continue the process of survival, or to increase one's business activities. In the continuity of these debt-receivable activities, it is undeniable that a default can occur or non-fulfillment of obligations arising from a debt-receivable. Fulfillment of obligations arising from a debt is an obligation that must be fulfilled, if this obligation is not fulfilled, legal action can be taken by the aggrieved party. This legal remedy can be carried out through efforts to claim default based on the provisions of the Civil Code Article 1243: "Reimbursement of costs, losses, and interest due to non-fulfillment of an agreement begins to be required, if the debtor, even though he has been declared negligent, but fails to fulfill the said agreement, or if something that must begiven or done can only be given or done within a time that exceeds the allotted time" (Indonesian Civil Code, 1848).

Efforts that can be made by the debtor after knowing his financial condition is in trouble which makes it possible for the cessation of debt payments, can choose several steps in carrying out the settlement of his debt. Highlighting the need to prioritize this strategy, he argues that the Suspension of Debt Payment Obligations (PKPU) carries significant instructional value. Consequently, it is appropriate for both Bankruptcy Law and PKPU to be seen as tools for

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community revitalization and advancement. Embracing PKPU allows the community to cultivate a heightened consciousness of meeting financial obligations and adhering unwaveringly to the agreements they've made (Agitha & Afriana, 2021).

Efforts to postpone the fulfillment of debt payment obligations follow the guidelines specified in Law Number 37 of 2004, addressing bankruptcy and the deferment of debt payment responsibilities. This deferment is divided into two types: Temporary Suspension of Debt Payment Obligations (TSDPO) and Fixed Debt Payment Obligations Suspension (FDPO) (Gede Nira Wicitra Yudha et al., 2022). “Debt Payment Obligations Suspension” denotes a legally prescribed period set by a commercial judge, allowing creditors and debtors to engage in discussions about approaches to resolve their debts. This period allows for the creation of a repayment plan, which may involve paying off either the entire debt or a portion of it. Furthermore, it can even involve restructuring the debt if deemed necessary (Fuady, 2017).

One potential benefit of delaying debt payment obligations is the avoidance of bankruptcy, which can enable debtors to maintain their business operations without the burden of debt repayment. This can also contribute to the overall health and success of their business (Sinaga, 2012). The intention behind the Suspension of Debt Payment Obligations, as outlined by Fred B. G. Tumbuan, is to protect debtors facing challenges, like financial liquidity or difficulty securing credit, from being declared bankrupt. By granting debtors time, the hope is that they can overcome their financial difficulties and settle their debts (Sjahdeni, 2002).

The aim of a Commercial Court case related to the Suspension of Debt Payment Obligations is to reach a consensus through a peace proposal, as outlined in Article 281 of Law Number 37 of 2004 regarding Bankruptcy and Postponement of Debt Payment Obligations. The primary focus of creating a peace proposal is the settlement of accounts payable, where the debtor suggests a plan to repay the creditor's debt and address their receivables. The Peace Proposal should outline the payment plan and detail how the debtor intends to meet its obligations to the creditor. This is particularly crucial given the debtor's prior failure to fulfill its commitments in the previous debt agreement (Christiawan, 2020). Law Number 37 of The Year 2004 does not further regulate the contents of the peace proposal and how to repay the agreed debt in the peace. This indicates that reconciliation to settle debt payments is entirely within the jurisdiction of the agreement between bankrupt debtors and concurrent creditors, grounded in the principles of party autonomy, good faith, and the doctrine of “*pacta sunt servanda”* (Ginting, 2018).

Article 284 of Law Number 37 of 2004, once the reconciliation plan gains approval, the overseeing judge is obligated to present a written report to the court on a specified date to formally validate the agreement. Subsequently, the approved resolution, endorsed by both the Suspension of Debt Payment Obligations (PKPU) petitioner and respondent, alongside the creditors, will be officially validated by the commercial court (Suyatno, 2012). The purpose of the homologation is ratification by the commercial court at a trial, which is referred to as homologation. At the homologation trial, ratification, or denial of the ratification of the peace may arise (Fuady, 2017).

Therefore, during the implementation of the peace accord, the debtor fails to keep their commitment or doesn't adhere to the terms of the agreement, there is a legal avenue to seek the annulment of the peace. This study centers on identifying the criteria for nullifying a peace agreement and analyzing these criteria in light of “Decision Number 2/Pdt.Sus-Cancellation of Peace/2023/PN.Niaga Sby, amalgamated with Number 69/Pdt.Sus-PKPU/2020/PN.Niaga Sby”.

Articles that have a discussion of legal remedies for review submitted to the decision to cancel homologation or cancel peace. In examining the findings of the study on the subject, it was observed that the suggested legal solutions for review did not adhere to the regulations set by the Bankruptcy Law and Suspension of Debt Payment Obligations (PKPU). In essence, legal actions were not taken against the court's rulings concerning the Suspension of Debt Payment Obligations (PKPU), unless explicitly specified in the Bankruptcy and Suspension of Debt Payment Obligations (PKPU) Laws. Article 293 in conjunction with Article 290 of the Bankruptcy and Suspension of Debt Payment Obligations (PKPU) Law has established that no

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legal recourse is available for challenging the Suspension of Debt Payment Obligations (PKPU) Decision (Safitri & Bintoro, 2020). Another articlediscusses the application for annulment of the peace decision (Homologation) in case "Number 10/Pdt.Sus-PKPU/2015/PN.Niaga/Smg". The article discusses a request for the annulment of the peace decision, initiated by the applicant due to a change in the management body of the Cooperative that carried out the Suspension of Debt Payment Obligations (PKPU). This alteration was considered a breach of the Peace Agreement(Aditya Fauzi Indarto, Siti Mahmudah, 2022). The discourse on the Suspension of Debt Payment Obligations (PKPU) initiated with the petitioner filing for PKPU due to a default on the rental agreement. The subsequent deliberations on the debt resolution process through PKPU commenced when the respondent proposed a peace plan. This plan encompassed an offer to settle either a partial or complete payment of the debt to creditors until the peace agreement's approval, leading to the conclusion and termination of the requested PKPU status by the Respondent (Casanova, 2017).

This paper will center its attention on examining the prerequisites for nullifying a peace accord and scrutinizing the procedure involved in applying these prerequisites within the framework of "Decision Number 2/Pdt.Sus-Cancellation of Peace/2023/PN.Niaga Sby", in conjunction with "Jo. Number 69/Pdt.Sus-PKPU/2020/PN.Niaga Sby".

II. RESEARCH METHOD

This study employs a normative legal perspective, which entails a concentrated examination of the implementation of positive legal principles or norms (Ibrahim, 2008). In this study, the type of normative juridical applied by the author is the application of legal rules regarding the conditions for annulment of peace following the provisions of the law against the application of statutory provisions based on a legal product, in this case, "Decision Number 2/Pdt.Sus-Cancellation of Peace/2023/PN.Niaga Sby Jo.Number 69/Pdt.Sus-PKPU/2020/PN.Niaga Sby". The type of research is analytical and descriptive where this research seeks to be able to provide a comprehensive and in-depth description of the circumstances or symptoms being studied (Soekanto & Mamuji, 2004). This research is expected to be able to provide an overview or describe in detail and comprehensively the conditions for canceling peace according to statutory provisions and the application of statutory provisions based on a legal product.

III. RESULTS AND DISCUSSION

Requirements for a Cancellation Request

A Settlement Agreement is described as a mutual understanding between the debtor and creditors, outlining the agreed-upon terms for the partial or complete repayment of the creditors' claims (Iqbal Tamrin, Ermanto Fahamsyah, 2021). In the process of the Suspension of Debt Payment Obligations (PKPU), peace or peace agreements play a crucial role in facilitating the ongoing recovery of the debtor's business. Therefore, the consensus within the mutually accepted peace plan, involving both the debtor and creditors, encompasses essential elements. Primarily, it includes granting a grace period to safeguard the debtor's business. Second, the attitude of tolerance of creditors in rescheduling debt repayments. Third, creditors are no longer looking at business profits solely, because the debtor's condition at the time of restructuring his debts is in an insolvent position or is expected to be insolvent.

Article 265 of the Bankruptcy Law and Suspension of Debt Payment Obligations (*PKPU*) governs the Peace Agreement within the framework of the Suspension of Debt Payment Obligations (*PKPU*) where in the article it is written that "the debtor has the right to offer a settlement to his creditors even after submitting a request for postponement of debt payment obligations" (Silalahi & Tanjung, 2021). Article 265 of Law Number 37 of 2004 governs the Peace

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Agreement within the context of Debt Payment Suspension (PKPU), where in the article it is written that "the debtor has the right to offer a settlement to his creditors even after submitting a request for a postponement of debt payment obligations" (Jacinda & Atalim, 2019) (Yunari, 2022) (Nurbaiti, 2019).

Following the homologation, the debtor is obligated to fulfill the peace agreement to prevent a bankruptcy ruling. Failure to comply may lead creditors to seek the annulment of the peace agreement. A settlement can be canceled due to the negligence of the debtor in carrying out the peace agreement. In this procedure, the burden of proof is reversed, requiring the debtor to demonstrate that they have indeed upheld the terms of the peace agreement when confronted with a request for its annulment (Suyatno, 2012). If the request to annul the granted settlement is accepted, it leads to the debtor being declared bankrupt, accompanied by all the associated legal repercussions. The decision to cancel the settlement must include a statement from the debtor that he is bankrupt, the appointment of a supervisory judge, and the reappointment of the creditors' committee (F, 2021).

The requirements for submitting a Settlement Termination Request are specified within the provisions of Law Number 37 of 2004. The legal framework governing the Request for Agreement Termination is elaborated in Article 170, along with Article 171 and Article 291 of Law Number 37 of 2004, which specifically address matters related to bankruptcy and the temporary suspension of debt payment obligations.

If the settlement cancellation request is approved, particularly in connection with Article 291 paragraph (2), the debtor will face bankruptcy along with its associated legal ramifications. The procedures for settlement cancellation requests, as outlined in Article 171, follow the same criteria specified in Article 7, Article 8, Article 9, Article 11, Article 12, and Article 13 for bankruptcy declaration applications. It's crucial to note that the conditions stipulated in Article 7 and Article 8 should be taken into account, given that these provisions also pertain to the prerequisites for approving a bankruptcy declaration request, which serves as a benchmark for settlement cancellation applications. Article 7 mandates that an advocate is responsible for submitting the application. Article 8, section (4), asserts that a bankruptcy declaration should be issued if there are facts or circumstances that clearly demonstrate the satisfaction of the bankruptcy requirements described in Article 2, section (1). Article 8, section (4), It elaborates that the term "clearly proven facts or circumstances" includes the existence of two or more creditors, the undisputed acknowledgment of overdue and unpaid debts, and emphasizes that discrepancies in the claimed debt amount between the bankruptcy applicant and the bankrupt respondent do not impede the issuance of a bankruptcy statement (Law of the Republic of Indonesia Number 37 of The Year 2004 Concerning Bankruptcy and Postponement of Debt Payment Obligations, 2004).

From these clauses, one can infer that the request to annul the reconciliation is essentially synonymous with the stipulations for filing a bankruptcy application.

Application of the Conditions for the Cancellation of the Peace Request against Decision Number 2/Pdt.Sus-Cancellation of Peace/2023/PN.Niaga Sby Jo.Number 69/Pdt.Sus-PKPU/2020/PN.Niaga Sby

Prior to examining the factors that resulted in the cancellation of the peace agreement as per "Decision Number 2/Pdt.Sus-Cancellation of Peace/2023/PN.Niaga Sby Jo. Number 69/Pdt.Sus-PKPU/2020/PN.Niaga Sby", it is crucial to clarify the specifics of this particular decision. These include: (1) Granting approval to the Petitioner's application; (2) Confirming that the Respondent failed to comply with the terms of the officially endorsed peace agreement as stated in the "Decision to Endorsement of Peace Number 69/Pdt.Sus-PKPU/2020/PN.Niaga Sby" dated June 25, 2021; (3) Nullifying the endorsement of the peace agreement (homologation) by the "Commercial Court at the Surabaya District Court as per Decision Number 69/Pdt.Sus-PKPU/2020/PN.Niaga Sby" dated June 25, 2021; (4) Announcing the Respondent's bankruptcy

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along with all the associated legal consequences; (5) Designating the Supervisory Judge and establishing the Curatorial Team.

In this judgment, the petitioner's request aligns with the requirements defined in Article 7 of Law Number 37 of The Year 2004 regarding Bankruptcy and the Suspension of Debt Payment Obligations. This article stipulates that the application must be initiated by a legally authorized representative. In this case, the Petitioner, namely Tatamulia Nusantara Indah Company has been represented by attorneys namely Djoko Pitono, Setyoko Judo Lelono, and Asmaur Rokhim, advocates and legal consultants at the "AZ dan Partners" law office, having the office address at Jalan Bratang Gede V Number 9 Surabaya City, based on a Power of Attorney Special dated February 1st, 2023 (Surabaya District Court Decision Number 2/Pdt.Sus-Cancellation of Peace/2018/PN. Niaga Sby, 2018).

Based on the provisions of the requirements in Article 8 paragraph (4) namely "The application for a declaration of bankruptcy must be granted if there are facts or circumstances that are simply proven that the requirements for being declared bankrupt as referred to in Article 2 paragraph (1) have been fulfilled," and the clarification in Article 8, paragraph (4), which explains "What is meant by facts or circumstances that are proven simply" refers to situations where there are two or more creditors, and the debts are overdue and remain unpaid. In connection with "Decision Number 2/Pdt.Sus-Cancellation of Peace/2023/PN.Niaga Sby Jo. Number 69/Pdt.Sus-PKPU/2020/PN.Niaga Sby", the conditions specified in Article 8, paragraph (4), and its explanations have not been satisfied. In the author's view, these criteria are not met because the application outlined in the decision does not harm other creditors with outstanding claims from the debtor. Therefore, the elements mentioned in the elucidation of Article 8, paragraph (4), concerning facts about two or more creditors have not been fulfilled.

The author's viewpoint on the stipulations outlined in Article 8, paragraph (4), along with their accompanying clarification, is reinforced by the legal principles discussed in the judgment of the Panel of Judges in decision No. 963 K/Pdt.Sus-Bankrupt/2020, namely "That the cancellation of the peace agreement in the Suspension of Debt Payment Obligations (*PKPU)* regulated in Article 291 also applies Article 170 and Article 171 of Law Number 37 of The Year 2004 *mutatis and mutandis*" (Supreme Court Decision Number 963 K/Pdt.Sus-Bankrupt/2020, 2020).

The factors taken into account by the panel of judges in "Decision Number 2/Pdt.Sus-Cancellation of Peace/2023/PN.Niaga Sby Jo. Number 69/Pdt.Sus-PKPU/2020/PN.Niaga Sby's" trade can be summarized in the following manner:

According to the panel of judges' evaluation in "Decision Number 2/Pdt.Sus-Cancellation of Peace/2023/PN.Niaga Sby Jo. Number 69/Pdt.Sus-PKPU/2020/PN.Niaga Sby", there is no mention of considerations related to the conditions for canceling the peace agreement. The author contends that this implies the panel of judges overlooked the stipulations set forth in Article 8, paragraph (4), and its corresponding explanation. This lack of consideration arises from the fact that the applicant failed to mention any other creditors, which is necessary to demonstrate the presence of two or more creditors. Consequently, the panel of judges did not assess whether the conditions for canceling the peace agreement, as stipulated in Article 170, Article 171, and Article 291 of Law Number 37 of The Year 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations, were met.

Comparative Analysis of Bankruptcy Laws in Indonesia and Other Jurisdictions

Bankruptcy laws play a pivotal role in shaping a country's economic landscape by providing a framework for handling financial distress and insolvency we will explore and compare bankruptcy laws in Indonesia with those in other countries to gain insights into their similarities, differences, and their impact on businesses and individuals.

Indonesia's regulations pertaining to bankruptcy are chiefly dictated by Law Number 37 of 2004, commonly referred to as the Bankruptcy and Suspension of Debt Payment Obligations Act (*UU Kepailitan dan Penundaan Kewajiban Pembayaran Utang in Indonesian*). The primary

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goals of Indonesia's insolvency regulations are to safeguard the interests of creditors, streamline the recovery process for struggling businesses, and guarantee an equitable allocation of assets when insolvency occurs.

To provide a comparative perspective, let's briefly examine the bankruptcy regulations in two distinct areas: the United States and Germany. In the United States, the bankruptcy law is rooted in constitutional provisions outlined in Article 1, Section 8, Clause 4 of the U.S. Constitution, which emphasizes the necessity of "establishing consistent bankruptcy laws that apply uniformly throughout the entire United States."

Moreover, within the realm of United States bankruptcy law, the typical procedure entails a debtor, whether it's an individual or an entity with outstanding debts, seeking legal assistance to alleviate their financial burdens through the court system. In the United States, there exist two primary forms of bankruptcy for individuals: Chapter 7 and Chapter 13. While each of these options comes with its own set of criteria and processes, it's important to note that neither of them results in a complete eradication of one's obligations.

Chapter 7 bankruptcy is a widely used method for resolving financial difficulties. It is open to individuals who are unable to make consistent monthly payments on their debts, and businesses looking to close their operations can also opt for Chapter 7. This type of bankruptcy offers relief to debtors regardless of the total amount they owe or whether they are in a financially stable or unstable condition. A Chapter 7 Trustee is designated to convert the debtor's assets into cash, which is then distributed among creditors.

In the concluding section of Chapter 7, it is clarified that there will be a provision for debt relief. In the context of bankruptcy, you will be granted a debt discharge, which absolves you, as the debtor, from being personally responsible for specific types of eligible debts. It's important to note that certain tax obligations might also qualify for discharge, but whether a federal tax debt can be discharged hinges on the specific details and individual circumstances of each case. To identify which tax debts can be discharged, it is advisable to seek guidance from your bankruptcy attorney.

A bankruptcy discharge releases the debtor from personal responsibility for specific categories of debts. Essentially, the debtor is no longer under a legal obligation to settle any debts that have been discharged. This discharge represents a lasting directive that forbids the debtor's creditors from pursuing any actions to collect discharged debts, which includes legal measures and any form of communication with the debtor, such as phone calls, written correspondence, and direct interactions.

While a debtor is relieved of personal liability for debts that have been discharged, a legitimate lien, which represents a claim on particular property to guarantee debt repayment, and has not been invalidated during the bankruptcy proceedings, will persist even after the conclusion of the bankruptcy case. Therefore, a secured creditor possesses the authority to employ the lien to recover the property that it has secured.

The timing for the release from legal obligations differs based on the specific chapter of the case. For instance, in a chapter 7 (liquidation) case, the court typically approves the release as soon as the period for filing objections to the discharge and motions to dismiss the case for substantial abuse has elapsed, typically occurring 60 days following the originally scheduled date for the 341 meeting. Typically, about four months following the debtor's submission of their petition to the bankruptcy court clerk, the discharge is generally approved promptly for individual Chapter 11, Chapter 12 (related to debt adjustment for family farmers or fishermen), and Chapter 13 (addressing debt adjustment for individuals with regular income) cases, once the debtor meets all payment obligations outlined in the plan. Because a Chapter 12 or Chapter 13 plan may include payments distributed over a span of three to five years, the discharge generally takes effect around four years following the initial filing date. The court possesses the power to deny a discharge to an individual debtor in either a Chapter 7 or Chapter 13 bankruptcy case if the debtor does not successfully complete a "financial management" education course. The Bankruptcy Code does

provide certain instances where the need for this educational prerequisite can be exempted. These exemptions come into play when the U.S. trustee or bankruptcy administrator determines that there is a lack of sufficient educational programs or if the debtor is disabled, incapacitated, or serving in a military combat zone.

Certainly, here are some key differences between bankruptcy laws in Indonesia and the United States:

1. Legal Framework:
   a. Indonesia: Indonesia follows a debtor-in-possession model, where the existing management of a bankrupt company continues to operate the business under the supervision of a court-appointed administrator. This model allows for the possibility of business continuity during the bankruptcy process.
   b. United States: The United States primarily follows a trustee-based model. In Chapter 11 bankruptcy, a trustee is often appointed to oversee the bankruptcy process. This trustee may take control of the company's operations, especially if there are concerns about mismanagement.
2. Chapter Structure:
   a. Indonesia: Indonesia does not have a chapter-based bankruptcy system like the United States. Instead, it has a single bankruptcy law, Law Number 37 of The Year 2004 on Bankruptcy and Suspension of Debt Payment Obligations which is "*UU Kepailitan dan Penundaan Kewajiban Pembayaran Utang).*"
   b. United States: The U.S. Bankruptcy Code has various chapters, each serving a specific purpose. Chapter 7 is for liquidation, Chapter 11 is for corporate reorganizations, and Chapter 13 is for individual debt repayment plans, among others. This chapter-based approach allows for more tailored solutions to different types of bankruptcies.
3. Creditor Protection:
   a. Indonesia: Indonesia's bankruptcy laws prioritize protecting the rights of creditors. The main objective is to ensure a fair distribution of assets among creditors.
   b. United States: While creditor protection is also important in the U.S., there is a strong emphasis on protecting individual debtors, especially in consumer bankruptcy cases. Chapter 7 bankruptcy, for example, allows individuals to discharge their debts, offering them a fresh start.
4. Debt Payment Moratorium:
   a. Indonesia: Indonesian bankruptcy law allows for the possibility of a debt payment moratorium. This temporary suspension of debt payments can provide breathing space for the debtor to negotiate with creditors and potentially restructure their debts.
   b. United States: The U.S. bankruptcy system does not explicitly provide for a debt payment moratorium. Instead, it focuses on a structured process for debt repayment, either through liquidation or reorganization.
5. Cross-Border Insolvency:
   a. Indonesia: Indonesia has adopted the UNCITRAL Model Law on Cross-Border Insolvency to facilitate cooperation in international insolvency cases.
   b. United States: The United States also has provisions for handling cross-border insolvency cases, allowing for coordination with foreign courts and administrators.

These differences reflect the distinct legal and economic contexts in Indonesia and the United States. While both countries have bankruptcy laws designed to address financial distress and insolvency, their approaches, procedures, and objectives can vary significantly, impacting the outcomes for debtors and creditors. Understanding these differences is crucial for individuals and businesses operating in or dealing with bankruptcy situations in these jurisdictions.

Germany's bankruptcy law, known as the Insolvency Statute (*Insolvenzordnung* or InsO), is a comprehensive legal framework that governs insolvency and bankruptcy proceedings in Germany. It provides the legal basis for handling financial distress and insolvency for individuals,

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companies, and other legal entities. The primary objectives of Germany's bankruptcy law are to ensure fair treatment of creditors, facilitate the restructuring of financially troubled businesses, and maintain economic stability. Here are key aspects and features of Germany's bankruptcy law:

Debtor-in-Possession Model: Germany employs a debtor-in-possession model, which means that the existing management of a company typically continues to operate the business during insolvency proceedings. This model is designed to preserve the value of the company and its assets.

Insolvency Proceedings: There are two main types of insolvency proceedings under German law: Liquidation (*Verbraucherinsolvenz*): This applies to individuals and small business owners. It aims to distribute the debtor's assets fairly among creditors and, in some cases, to provide a fresh start for individuals. Reorganization (*Unternehmensinsolvenz*): This applies to companies and larger entities. The goal is to restructure the company's debts and operations to enable it to continue as a going concern.

Insolvency Administrator: Typically, a court appoints an insolvency administrator (Insolvenzverwalter) to supervise the insolvency proceedings. The administrator is tasked with handling assets, probing into the debtor's financial matters, and advocating for the creditors' interests.

Creditors' Committee: In larger insolvency cases, a creditors' committee (*Gläubigerausschuss*) may be formed to provide oversight and make important decisions during the insolvency process.

Moratorium: Germany's insolvency law allows for a temporary moratorium (*Aufschub*) during which creditors cannot enforce their claims against the debtor. This provides the debtor with a window of opportunity to negotiate and present a restructuring plan to creditors.

Reorganization Plans: A key feature of reorganization proceedings is the development of a restructuring plan (*Insolvenzplan*) that outlines how the debtor intends to satisfy its creditors and continue its operations. Creditors must approve this plan, and it can lead to significant changes in the company's capital structure.

Cross-Border Insolvency: Germany is part of the European Union, and EU regulations on cross-border insolvency (such as the European Insolvency Regulation) play a role in cases involving entities with operations in multiple EU member states. These regulations aim to coordinate insolvency proceedings across borders within the EU.

Priority of Claims: Germany's insolvency law establishes a hierarchy for the distribution of assets to creditors. Secured creditors typically have priority over unsecured creditors, and certain claims, such as tax claims, may also receive special treatment.

Duration: Insolvency proceedings in Germany are generally designed to be resolved as quickly as possible to minimize disruption to the economy and to provide a swift resolution for creditors and debtors.

In Germany's bankruptcy law, there is a provision known as "Suspended Insolvency" or "Suspended Proceedings" (*Suspendierung des Insolvenzverfahrens*). This provision allows for the temporary suspension of insolvency proceedings under certain circumstances. Here is an explanation of suspended insolvency in Germany:

The purpose of Suspended Insolvency or Suspended insolvency is to provide debtors with a reprieve from the immediate enforcement of their insolvency or bankruptcy proceedings. It allows them the opportunity to negotiate with their creditors and potentially restructure their debts, to avoid the complete liquidation of their assets or business.

Suspended insolvency is seen as a way to promote the rehabilitation of financially distressed debtors and to potentially save businesses that might otherwise be forced into liquidation. It provides a structured process for debtors and creditors to negotiate and find mutually beneficial solutions to financial difficulties. However, it is important to note that not all debtors will qualify for suspended insolvency, and the decision to grant it is at the discretion of the insolvency court, based on the specific circumstances of the case.

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Overall, Germany's bankruptcy law is known for its efficiency, transparency, and creditor-friendly approach. It aims to find a middle ground by safeguarding both the continuity of functional businesses and the rights of creditors. The approach of allowing debtors to remain in control during insolvency and focusing on restructuring enables numerous companies to emerge from financial distress as robust and stable entities.

Certainly, here are some key differences between bankruptcy laws in Indonesia and Germany:

1. Legal Framework:
   a. Indonesia: Indonesia follows a debtor-in-possession model, where the existing management of a bankrupt company continues to operate the business under the supervision of a court-appointed administrator. This model allows for the possibility of business continuity during the bankruptcy process.
   b. Germany: Germany also follows a debtor-in-possession model, similar to Indonesia. In insolvency proceedings in Germany, the existing management usually remains in control of the company, and the focus is on restructuring and continuation of business operations.
2. Creditor Protection:
   a. Indonesia: Indonesia's bankruptcy laws prioritize protecting the rights of creditors. The main objective is to ensure a fair distribution of assets among creditors.
   b. Germany: Like Indonesia, Germany places a strong emphasis on creditor protection. The goal is to ensure that creditors receive their rightful claims during insolvency proceedings.
3. Procedures and Timelines:
   a. Indonesia: Indonesia's bankruptcy laws allow for the possibility of a debt payment moratorium, providing temporary relief for the debtor to negotiate with creditors and potentially restructure their debts. The process can be relatively flexible.
   b. Germany: Germany's insolvency laws encourage early intervention and aim for a speedy resolution of insolvency cases. The process is generally well-structured and efficient, with a focus on reaching a solution as quickly as possible.
4. Cross-Border Insolvency:
   a. Indonesia: Indonesia has embraced the UNCITRAL Model Law on Cross-Border Insolvency, promoting global collaboration in dealing with insolvency issues.
   b. Germany: Germany is part of the European Union and follows EU regulations on cross-border insolvency, which allow for coordination and cooperation with other EU member states in insolvency cases.
5. Legal Framework and Jurisdiction:
   a. Indonesia: The foundation of Indonesian bankruptcy law lies in its domestic regulations, particularly Law Number 37 of 2004 concerning Bankruptcy and the Suspension of Debt Payment Obligations. The authority to handle bankruptcy cases rests within the borders of Indonesia.
   b. Germany: Germany's insolvency laws are governed by the Insolvency Statute (*Insolvenzordnung* or InsO). Germany is also part of the EU, and EU regulations play a role in cross-border insolvency cases involving German companies.

These differences highlight variations in approach and procedures between Indonesia and Germany when it comes to handling bankruptcy and insolvency cases. While both countries use a debtor-in-possession model and emphasize creditor protection, the specific legal frameworks, procedures, and priorities can differ, impacting the outcomes for debtors and creditors in each jurisdiction. Understanding these distinctions is essential for individuals and businesses dealing with insolvency or considering investments in these countries.

Therefore talking about comparing Indonesia's bankruptcy laws to those in the United States and Germany, several notable differences emerge:

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1. Legal Framework: Indonesia and Germany adopt a debtor-in-possession approach, while the United States uses a trustee-based model. The choice of model impacts the degree of control retained by existing management during insolvency.
2. Creditor Protection: The United States places a strong emphasis on protecting individual debtors, while Indonesia and Germany focus on creditor rights and business continuity.
3. Procedures and Timelines: Each country has its procedures and timelines for bankruptcy cases. Indonesia, for example, allows for a debt payment moratorium, while the U.S. emphasizes swift resolution through Chapter 11 reorganizations.

Bankruptcy laws vary significantly from one country to another, reflecting different legal, economic, and cultural contexts. Indonesia's bankruptcy laws prioritize creditor protection and business continuity through a debtor-in-possession model. In contrast, the United States focuses on individual debtor protection and efficient liquidation or reorganization processes, with a trustee-based system. Germany also follows a debtor-in-possession approach but places a strong emphasis on early intervention and speedy resolution Understanding these differences is crucial for businesses operating internationally or considering investments in foreign markets. Bankruptcy laws play a vital role in determining the outcomes of financial distress, and their nuances can significantly impact the strategies and decisions of debtors, creditors, and investors alike.

IV. CONCLUSION

In the procedure of Suspension of Debt Payment Obligations, if an agreement is reached that is agreed upon by the debtor and the creditors, homologation will be carried out. If the homologation is not fulfilled, a legal remedy for annulment of the peace can be filed. Creditors can initiate the cancellation of a peace agreement by adhering to the conditions outlined in Article 170, in conjunction with Article 171 and Article 291 of Law Number 37 of The Year 2004 regarding Bankruptcy and Suspension of Obligations for Payment of Debt. In the decision documented as "Number 2/Pdt.Sus-Cancellation of Peace/2023/PN. Niaga Sby Jo. Number 69/Pdt.Sus-PKPU/2020/PN. Niaga Sby", the panel of judges did not consider the terms for canceling the reconciliation, stating that the requirements specified in Article 8, paragraph (4), which encompasses the content of Article 171, were not met. The applicant's request to cancel the peace agreement does not address the presence of multiple creditors, as outlined in Article 8, paragraph (4), and their respective explanations. Additionally, in the section discussing legal considerations, the panel of judges did not take into account the terms of the peace agreement cancellation request, as it failed to provide information regarding the fulfillment of the necessary conditions by the applicant.

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