

Application of Cross Border Insolvency in bankruptcy from the Legal Perspective of Indonesian Civil Procedure Law

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The legal provisions concerning cross border insolvency or other terms, namely cross-border bankruptcy law, are only regulated in three articles. These are Article 212, 213 and 214 in Law No. 37 of 2004 concerning bankruptcy and postponement of obligations of debt payments. The definition of cross border insolvency in Indonesian bankruptcy Law is based on Article 212 of Law No. 37 of 2004, which deals with bankrupt assets that are located outside the territory of the Republic of Indonesia. Bankruptcy law in Indonesia does not regulate detailed mechanisms of law if there is cross border insolvency in the debtor's bankruptcy settlement. What legal action should be taken if the debtor's assets are outside the Indonesian jurisdiction in the legal procedural perspective? The procedural law used in bankruptcy proceedings is the Civil Procedure Code based on Het Herziene Inlandsch Reglement. The difference is only in the event of proof, where in the case of bankruptcy the payment of debt proof is simply referring to the provisions of Article 8, paragraph (4) of Law No. 37 of 2004. Can the legal provisions of the civil procedure in bankruptcy be applied in a cross-border insolvency? How can the application of civil procedural law in a cross-border insolvency apply internationally? The legal concept of civil procedures regarding cross border insolvency is a form of legal protection against creditors obtaining their rights to the distribution of bankrupt assets, especially concurrent creditors.

Key words: *Cross border insolvency, bankruptcy, civil procedural law.*

Introduction

Bankruptcy is a separate or special legal concept that applies to civil laws that are generally accepted. The legal principle *lex specialist derogate lex generalis* applies in bankruptcy law, so that in certain cases it is still adopted based on general provisions applicable in civil law, including the Civil Code (hereinafter referred to as the 'Civil Code'), Civil Procedure Law (HIR and RBg) and Rv. General provisions that apply in the Civil Code as the basis of bankruptcy law include the provisions of Article 1131 of the Civil Code. It reads, 'All material things that are owed, both movable and immovable, both existing and new, will be in the future, borne by all individual engagement.' The provisions of Article 1132 of the Civil Code read, 'The material is a joint guarantee for all people, who impose on it the income from the sale of the objects, which is divided according to the size of their respective receivables, except if, among the debtors, there are reasons which are legal to take precedence.' The definition of bankruptcy in *lex specialist* is regulated in the provisions of Article 1, paragraph (1) of Law No. 37 of 2004 concerning bankruptcy and suspension of debt payment obligations (hereinafter referred to as the 'bankruptcy and PKPU Law'). It reads, 'Bankruptcy is general confiscation of all the assets of the bankrupt debtor whose management and settlement is carried out by the receiver under the supervision of the supervising judge as regulated in the law inviting this.'

The main principle in bankruptcy is the management and acquisition of the assets of the bankrupt debtor by the receiver to repay all of its debts to creditors. Indonesian Bankruptcy Law does not regulate in detail the mechanism or procedural law that is used if there are bankruptcy assets that are abroad or outside national borders. The term is known in bankruptcy law as cross border insolvency. The procedural law used in bankruptcy proceedings and the postponement of debt payment obligations is a civil procedural law based on *Het Herziene Inlandsch Regulations (HIR)*. It is regulated in the provisions of Article 299 of the bankruptcy and PKPU Law which read, 'Unless otherwise stipulated in this law, the law of the applicable procedure is the Civil Procedure Law.' The difference is only in the evidentiary event. In the case of bankruptcy and delay in obligation of payment of debt proof debt, it is done by simply referring to the provisions of Article 8, paragraph (4) of the Bankruptcy Act and PKPU, which reads, 'Requests for bankruptcy statements must be granted if there is a fact or condition which is simply proves that the requirements for bankruptcy, as referred to in Article 2, paragraph (1), have been fulfilled.'

Problem Identification

The main issues in this paper are

1. How can the application of civil procedural law in cross border insolvency apply internationally?
2. Can the provisions of civil procedural law in bankruptcy cross national borders and be applied in cross border insolvency?
3. How can the concept of civil procedural law, regarding simple verification, be applied in cross border insolvency?

Civil Procedure Law in Cross Border Insolvency

Provisions regarding cross border insolvency are indeed not yet a norm in business law that can be applied in Indonesia. In other words, there is a legal vacuum in the aspect of bankruptcy that crosses national borders (cross border insolvency). Such conditions apply to receivers who, according to the law, are given the authority to administer and settle debtors' bankruptcy assets. They often experience difficulties, especially in the acquisition of debtor assets or bankruptcy that is outside the jurisdiction of the Republic of Indonesia.

The practice is, up to now, if the receiver wishes to arrange and settle by executing the debtor's assets abroad, they must first reapply before the court where the debtor's assets or bankruptcy proceedings are located. This will take a long time and costs are not small. This happens because until now, Indonesia does not have any international agreements with any country, both bilateral and multilateral, in the case of cross border insolvency. Regulations concerning bankruptcy across national borders in bankruptcy and PKPU Law are regulated in several articles. These include

- Provisions of Article 212 of the bankruptcy and PKPU Law, which reads, 'Creditors who, after pronouncement of a bankruptcy statement is pronounced, take full or part of their accounts receivable from debts that are included in bankrupt assets located outside the territory of the Republic of Indonesia, which are not bound to them with the right to take precedence, must substitute for bankruptcy everything that they get.'
- Provisions of Article 213 of the bankruptcy and PKPU Law, which reads: '(1) Creditors who move all or part of their receivables against Bankrupt debtors to third parties, with the intention that third parties take repayment in advance of others over all or part of their receivables from objects that are included in bankrupt assets located outside the territory of the Republic of Indonesia, must reimburse for the bankruptcy assets obtained. (2) Unless proven otherwise, each transfer of receivables must be deemed to have been carried out in accordance with the provisions referred to in

paragraph (1), if the transfer is carried out by the creditor and the creditor knows that the statement of bankruptcy has been or will be submitted.’

- Provisions in Article 214 of the bankruptcy and PKPU Law, which reads, ‘(1) Any person who transfers all or part of his debt or debt to a third party, who therefore has the opportunity to have a debt meeting outside the territory of the Republic of Indonesia that is not permitted by this Law, is obliged to replace the bankrupt assets. (2) Provisions of Article 213, paragraph (2) shall also apply to matters as referred to in paragraph (1).’
- Provisions of Article 30 of the bankruptcy and PKPU Law, which reads, ‘In the event that a case is continued by the receiver against the opposing party, the receiver may submit a cancellation of all acts committed by the debtor before the person concerned is declared bankrupt, if it can be proven that the actions of the debtor are carried out with the intent to the detriment of creditors and this is known by the other party.’
- Provisions of Article 31 of the bankruptcy and PKPU Law, which reads, ‘(1) Decisions of the bankruptcy statement result that all judgments regarding the implementation of the Court of any part of the debtor's assets that have begun before the bankruptcy, must be stopped immediately and since then no decision can be implemented including or holding the debtor hostage; (2) all confiscations made have been deleted and if necessary, the supervisory judge must order the deletion; (3) by not reducing the effectiveness of the provisions referred to in Article 93, the debtor currently in detention must be released immediately after the verdict of the bankruptcy statement is pronounced.’

In the business world, the relationship between debt and credit agreements is not strange, but if the debtor cannot return the loan to the creditor, then this is the role of bankruptcy law. The role and presence of international law is very relevant in a bankruptcy case if the debt and credit agreement includes foreign parties. The term bankruptcy, in resolving bankruptcy cases involving foreign parties, is called cross border insolvency. The writer Anglo Saxon called it Transnational Insolvency (Adolf, 2009).

Cross-border insolvency occurs when the assets or debts of a debtor are located in more than one country, or if the debtor belongs to the court jurisdiction of two or more countries (Manko, 2013). The United Nations Commission on International Trade Law (UNCITRAL), an institution founded by the United Nations on December 17, 1966, had issued several model laws on CBI. One of them is the Model Law on Cross-Border Insolvency (1977), which is designed to help countries to supplement each country's bankruptcy law with a modern legal framework to be more effective in handling CBI proceedings concerning

debtors who experience serious financial problems or insolvency. The Model Law focuses on granting authorisation and encouraging cooperation and coordination among various jurisdictions, rather than trying to encourage unification of substantive bankruptcy laws. It respects differences between the national procedural laws of these countries (Sutan Remy Sjahdeini). Basically, bankruptcy across state borders involves the interests of 2 different countries. For example, there is a situation where creditors and debtors are 2 legal subjects who are domiciled in different countries so that, in such circumstances, the country where the creditor and debtor is domiciled have different sovereignties. In such a situation, if the creditor sues the debtor bankrupt under the applicable law in the creditor country, then the bankruptcy decision cannot be executed in the country of residence of the debtor because it has crossed the sovereignty of the creditor country. A legal event that is said to contain a foreign element in it is when in the legal event there is one party from a foreign citizenship legal event, foreign legal domicile or foreign property (Gautama, 2008).

Bankruptcy is a general confiscation of all the assets of a Bankrupt debtor whose management and settlement is carried out by the receiver under the supervision of the supervising judge as regulated in this Law: Article 1, paragraph (1) bankruptcy and PKPU Law.

The receiver's duty is regulated in the provision of Article 69 of the bankruptcy and PKPU Law, which reads,

- (1) The receiver's duty is to administer and/or procure bankrupt assets.
- (2) In carrying out their duties, the receiver
 - a. Is not required to obtain approval from or deliver prior notice to the debtor or one of the debtor organs. Even if circumstances are beyond bankruptcy, such approval or notification is required.
 - b. May make loans from third parties, only in the context of increasing the value of bankrupt assets.

Application of Civil Procedure Law in Cross Border Insolvency Bankruptcy

Article 21 of Law No. 37 of 2004, concerning bankruptcy and suspension of debt payment obligations ('Law 37/2004'), stipulates that bankruptcy covers all debtors' wealth at the time the verdict of the bankruptcy statement is pronounced, as well as everything obtained during the bankruptcy. From this provision, it can be seen that materially, the decision of the Commercial Court on the request for bankruptcy statements covers all debtor assets, both debtor assets located in Indonesia and abroad. Therefore, debtor assets outside of Indonesia adhere to the principle or principle of universality (Hikmah, 2007). Formally, the

implementation of executing debtor assets abroad will experience difficulties, especially when dealing with the jurisdiction of other countries. Therefore, it is necessary to see whether the laws of other countries (where the bankruptcy assets are located) recognise the bankruptcy decision. Thus, materially, the decision of the Indonesian commercial court in reaching the debtor's assets abroad collided with the principle of sovereignty. Each state has legal sovereignty that cannot be penetrated or sued by the laws of other countries (Irit, 2014).

According to Sudargo Gautama, personal status is a group of rules that follow a person where they are. It has an environment of prevailing power and is extra territorial or universal and is not limited to the territory of a particular country (Irit, 2014). Personal status can be interpreted as the law of a country where a person or legal entity has nationality. The law will later determine the authority and ability of legal subjects to carry out a cross-border legal act.

Other conditions can also be illustrated if the creditor and debtor are in the same country, but in this situation the debtor has a lot of assets abroad that can be classified as bankrupt assets when the debtor is declared bankrupt by a court in his or her country. The bankrupt assets exist outside the territorial sovereignty of the country where the debtor is bankrupt. In this regard, there is a case study from Decision No. 021/PKPU/2000/PN. Niaga jo. Decision No. 78/Pailit/2001/PN. Niaga.

In that case, there was an entrepreneur with the initials FM domiciled in the country of Indonesia, a debtor who was declared bankrupt by the Central Jakarta Commercial Court. FM had a number of assets and deposits in Saudi Arabia, but the Commercial Bank's bankruptcy decision cannot automatically execute the assets of FM debtors in Saudi Arabia. This is in conflict with the sovereignty issue of a country, where commercial court decisions cannot be used to execute assets of a debtor who is in a country outside the sovereignty of the Indonesian State. It can be said this is a case of bankruptcy across national borders. This is so if the debtor concerned has assets in more than one country (outside the country where the bankruptcy case is processed).

There are 2 principles relating to the issue of whether a foreign decision on bankruptcy can apply or has legal consequences in the territory of the state itself. These are the principle of territoriality and the principle of universality, as can be seen in the following description:

1) The principle of territoriality:

This principle limits the enactment of bankruptcy decisions in an area of the country. According to this principle, bankruptcy only applies to parts of the assets located within the territory of the country where the award was determined (Subhan, 2008).

2) The principle of universality:

It is a principle that considers a bankruptcy ruling to apply throughout the world so that the verdict of a bankruptcy pronounced in a country has a legal consequences wherever the person declared bankrupt has assets (Subhan, 2008).

According to the Indonesian HPI system, bankruptcy decisions use the territoriality principle so that a bankruptcy decision pronounced abroad has no legal consequences at home. Therefore, with the adoption of this principle, a person who has been declared bankrupt abroad can be declared bankrupt again in Indonesia. This also means that the bankruptcy verdicts that have been pronounced in Indonesia only have an effect on objects contained within the territory of their own country (Gautama, 2008).

The determination of the legal system that applies to an agreement is done by looking at the factors and circumstances that determine the enactment of a particular legal system (Gautama, 2008). The implementation of bankruptcy decisions in cross-border bankruptcy disputes is inseparable from the choice of law clauses and the choice of the forum. This is in accordance with the principle of freedom of contract. Each party can determine their own in their debt agreements regarding the choice of law, choice of forum jurisdiction and choice of domicile, as explained below (Munir, 2005).

Table 1:

Forum choices, legal choices, and domicile choices

No.	Element	Description
1	Choice of Forum	<p>The choice of forum is the freedom to choose a court where the parties choose and agree to settle disputes that might arise in the implementation of the agreement. The choice of forum is open for civil cases or international trade so that in cross-border bankruptcy issues either of these can be categorised as international civil and trade cases. This is because there are foreign elements in them. The forum choice is also open for cross-border bankruptcy cases (Gautama, 2008).</p> <p>The advantages of selecting a court are (Munir, 2005) (1) that a court located in the jurisdiction of a country where the chosen law is used will know more about the laws that apply in that region; (2) that a court which is domiciled in the jurisdiction where the case occurred or a contract was implemented will better understand the case in question; and (3) that it is easier for a court located in the jurisdiction where the contract is conducted to access the evidence needed during the settlement of the dispute.</p>
2	Choice of Law	<p>The choice of law clause is a contractual provision whereby the parties designate the law of a country</p>

		<p>that will be used to settle disputes arising from the agreement. According to Sudargo Gautama, the choice of law is defined as freedom granted to the parties who make an agreement to choose their own law to be used. In the selection of law, it means that the judiciary which hears cases of an international nature will use the law of the country that has (Gautama, 2008).</p> <p>The law was chosen. Freedom in determining the choice of law in the agreement refers to the agreement which is the source of the agreement and serves as the law for the parties to the engagement, this is in accordance with the Principle of Freedom of Contract in Article 1338 Civil Code.</p> <p>The existence of foreign elements is an absolute requirement to be able to make a choice of law so that, in the case of cross-border bankruptcy, there are foreign elements that can also be made a choice of law. The issue of legal choice is related to the issue of renvoi. Appointment to a particular country's legal system by a choice of law is a designation which is Sachnorm- verweisung.</p>
3	Choice of Domicile	If the parties do not make their own choice of law, forum choice and domicile choice, the law in this case

	<p>provides the rules for regulating it. In other words, it regulates, in such a case, which law applies, which court is authorised or which domicile to use. The place of a legal entity's position, in the area of International Civil law, is an issue where the legal entity is placed in the discussion of personal status. The personal status of this legal entity determines how the rights and authority of the legal entity apply as possessed by individuals. These legal rules are used to determine whether or not a legal entity has the ability to act in law, the law governing internal organisations and relations with third parties and terminate as a legal entity.</p> <p>In determining the domicile of a legal entity, several theories are known. They are (Gautama, 2008):</p> <ul style="list-style-type: none">a. Corporation Theory: According to this theory, a legal entity is subject to the law in which it was founded or formed.b. The Theory of Permanent Place of Place: According to this theory, the law of the place where, according to the legal entity, the body concerned has a position.c. The Theory of Effective Management's Position: According to this theory, a legal entity is subject to the law where it has an effective management position.
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Source: Processed from various sources.

Forum choices and legal choices can cause problems if the chosen court is not a court in the country where the award was executed in court. An example is if the chosen one is not a court in the country in which bankrupt debtor assets are located. Judges' decisions from certain countries can only be implemented within the territory of the country itself and cannot be implemented in other countries. In Indonesia, the decisions of foreign judges cannot be directly carried out within the territory of the Republic of Indonesia, especially the decisions of foreign judges that are condemnatory. It also has an impact on the verdict of the Indonesian judge's bankruptcy, which cannot execute the assets of the bankrupt debtor who is abroad.

The matter arose because it was considered as a violation against the principle of state sovereignty of an independent and sovereign state. This matter, due to the enactment of the 'principle of territoriality' or 'the principle of territorial sovereignty', requires that decisions made abroad are not directly carried out in other regions on their own authority. Moreover, in the absence of an international agreement between Indonesia and other countries, foreign decisions cannot be implemented in Indonesia. Despite this, the decisions of foreign judges who do not ask holding executions of property located in the territory of Indonesia can be

recognised, as long as the foreign court decides they are indeed authorised to make the decision and that decision has indeed been made legally (declaratory and constitutive decisions). This is because in general declaratory decisions and this component do not require implementation. Decisions of this kind only create the rights and obligations of the person who is suspect in a particular relationship. Therefore, they are easily recognised by the judge overseas (where decisions are made).

Even though the request for execution has been resubmitted in the context of procuring bankruptcy bailouts before a foreign court where the assets or bankruptcy is located, it is not certain that every country can or will do so. Basically, this is related to the principle of state sovereignty, which postulates that any independent and sovereign state cannot be intervened in by other countries. This case also relates to jurisdiction in which jurisdiction is the competence or legal authority of the state against people, objects and legal events. This jurisdiction is a reflection of the basic principles of state sovereignty, equality of state degrees and the principle of non-intervention (Sefriani, 2016).

There are three types of jurisdiction owned by a sovereign state (Sefriani, 2016):

1. the authority of the state to make legal provisions against people, objects, events and actions in their territorial territory (legislative jurisdiction or prescriptive jurisdiction);
2. the state's authority to enforce the provisions of its national legal provisions (executive jurisdiction or enforcement jurisdiction); and
3. the authority of the state court to try and give judicial jurisdiction.

In addition, the implementation of foreign decisions in a country can also be hampered by the existence of public order imposed by each country. In the theory (*das sollen*) bankruptcy law states that the debtor's assets outside the jurisdiction of the Republic of Indonesia are part of the bankrupt bank loan. However, in this case, there is a reality of the implementation (*das sein*). The property can not necessarily included in the bankrupt bank loan list. Then, related to the assets of bankrupt debtors abroad or located outside the jurisdiction of the Republic of Indonesia, there are two possibilities:

1. If the decision of a bankruptcy is issued by the Indonesian Commercial Court it can recognise and carry out the execution by issuing the bankruptcy loan in a foreign country (the country where the asset is located). Then, the status of the object is added to the bankrupt assets used to pay debts to creditors so that execution can be carried out according to the essence of general bankruptcy.
2. If the country where the bankruptcy body is located, for reasons of the territorial principle of bankruptcy adopted by the country and also for reasons contrary to the public order of the local country, is unable to carry out the execution of that asset, the steps that can be

taken are to use these assets to pay debt to one creditor in accordance with the amount of the receivables. Then the creditor can replace it with money equal to the worth of the asset. It is to be added to the other bankrupt assets that will be distributed to repay debts to all other creditors. This will imply that the debtor's assets abroad are no longer included in bankruptcy bank assets. However, this must first be approved by the receiver and supervising judge.

The Concept of Civil Procedure Law Regarding Simple Proof that can be Implemented in Cross Border Insolvency

The procedural law used in bankruptcy proceedings and the postponement of debt payment obligations is a civil procedural law based on Het Herziene Inlandsch Regulations (HIR). It is regulated in the provisions of Article 299 of the bankruptcy and PKPU Law, which reads, 'Unless otherwise stipulated in this law, the law of the applicable procedure is the Civil Procedure Law.' The difference is only in the evidentiary event, where in the case of bankruptcy and delay in obligation of payment of debt proof debt it is done by simply referring to the provisions of Article 8, paragraph (4) of the bankruptcy Act and PKPU. It reads, 'Requests for bankruptcy statements must be granted if there is a fact or condition which is simply proves that the requirements for bankruptcy, as referred to in Article 2, paragraph (1), have been fulfilled.'

Proof of simplicity in the bankruptcy trial proceeding also applies in the postponement of the obligation of debt payment (PKPU). This is a legal requirement for the granting of a bankruptcy request filed by the creditor. The simplest definition of proof in the context of civil procedure law is to assess evidence only in terms of the formal requirements of that evidence. Judges are not charged with assessing the material strength of the evidence presented by the parties (creditors and debtors) in litigation at trial. Indonesian Bankruptcy Law, in the explanation of Article 8, paragraph (4) of the bankruptcy Law and PKPU, reads, 'What is meant by' facts or circumstances that are proven simply 'is the fact that there are two or more creditors and facts of debt that have matured and are not paid. While the difference in the amount of debt argued by the applicant for bankruptcy and what is insured for bankruptcy does not preclude the issuance of a decision on bankruptcy.' Based on the description above, it can be concluded in the examination of bankruptcy cases that are required based on the provisions of Article 2, paragraph (1) of the bankruptcy and PKPU Law, that the existence of two or more creditors who have debts (one of which has matured and can be billed), must be proven simply.

The trial process in bankruptcy and PKPU cases is relatively quick in obtaining a legal decision. The provisions of Article 8, paragraph (5) of the bankruptcy and PKPU Law regulates that 'The Court's decision on the application for a statement of bankruptcy must be

pronounced no later than 60 (sixty) days after the date on which the application for the statement of bankruptcy is registered.’ Unlike the PKPU trial, where the hearing period of the hearing is faster, the provisions of Article 225, paragraph (2) stipulate that ‘In the case of an application submitted by the debtor, the court shall be no later than 3 days after the date the application letter is registered. As referred to in article 224, paragraph (1), it must grant the suspension of the obligation to pay the temporary debt and must appoint a supervisory judge from the court judge and appoint one or more managers who, together with the debtor, take care of the property of the debtor.’

In the postponement of debt payment obligations submitted by creditors, the provisions of Article 225, paragraph (3) shall apply, namely, ‘In the case that the application is submitted by the creditors, the Court must not be later than 20 days after the date the application letter is registered. It must grant the request to postpone the payment obligation of temporary debt and must appoint a supervising judge from the court judge and appoint one or more managers who, together with the debtor, take care of the property of the debtor.’ Based on the description above, in terms of the length of the trial proceedings, the case for bankruptcy examinations is faster than the proceedings in the general civil court.

The management and issuance of the debtor's bankrupt assets are carried out by the receiver under the supervision of the supervising judge. In practice, there are times when the receiver takes legal action in the form of a lawsuit against parties related to bankrupt assets. The Bankruptcy Law and PKPU regulate two things regarding this lawsuit:

- 1) The lawsuit of Actio Pauliana. It is regulated under the provision of Article 3, paragraph (1) of the Bankruptcy and PKPU Law, which reads, ‘The decision on the request for bankruptcy statement and other matters related to and/or regulated in this law is decided by the Court whose jurisdiction is legal include areas where the legal position of the debtor.’ In the explanation of this article, what is meant by ‘other matters’ includes Pauliana's actions, the third party's resistance to confiscation or cases where the debtor, creditors, receivers or management become one of the parties in a case relating to bankrupt assets. This includes the claim of the receiver against the directors, which caused the company to go bankrupt due to negligence or mistakes. The procedural law in effect in adjudicating cases that are included in ‘other matters’ is the same as the Civil Procedure Law which applies to cases of requests for bankruptcy statements, including the limitation on the duration of its settlement.
- 2) The Renvooi Procedure Lawsuit. It is regulated under the provisions of Article 127, paragraph (1) of the bankruptcy and PKPU Law, which reads, ‘In the case of a rebuttal while the Supervisory Judge cannot reconcile the two parties, even though the dispute has been submitted to the Court, the supervisory judge orders both parties to settle such

disputes in court.’ The requirements to submit this claim are regulated in the provisions of article 127, paragraph (2) and paragraph (3) of the bankruptcy and PKPU Law, namely, (2) Advocates representing the parties must be advocates as referred to in article 7; (3) The case, as referred to in the first paragraph, shall be examined in a simple manner.

Based on the description above, it can be concluded that the procedural law used in a bankruptcy case, including lawsuits arising in the process of processing and settling bankruptcy assets, is the Civil Procedure Law. The procedure is carried out through filing a lawsuit. This is done by the parties, in this case the receiver, debtor or creditor. They are limitedly regulated in the provisions of Article 47 of the bankruptcy Law and PKPU. The application of civil procedural law in the resolution of disputes in bankruptcy must be examined in a simple manner both within the timeframe and proof of trial. If this is related to cross border insolvency, then the civil procedural law with a simple inspection procedure can be applied. Obstacles that often arise are dealing with the legal system in the country concerned. International conventions are indeed an effective answer that becomes the legal basis for implementing cross border insolvency.

Closing

The application of civil procedural law in the resolution of disputes in bankruptcy must be examined in a simple manner both within the timeframe and proof of trial. If this is related to cross border insolvency, then the civil procedural law, with a simple inspection procedure, can be applied. Obstacles that often arise are always dealing with the legal system in the country concerned. International conventions are indeed an effective answer that become the legal basis for implementing cross border insolvency.

The concepts that can be applied in cross border insolvency are

1. The procedural law. The Civil Procedure Law is used in a country where the bankruptcy property is located with a simple inspection procedure. It is especially simple in its proof. This is indeed an obstacle because the legal systems of each country are different, but unification can be done through international conventions on cross border insolvency. Based on that, the Civil Procedure Code can apply universally; and
2. Register to execute. This concept is almost similar to the implementation of a foreign arbitral award in a country. Decisions regarding bankruptcy in one country are sufficient to be registered with the court where the bankruptcy property is located in order to request the execution of the decision. The examination process is carried out simply so that it does not take too long. This ensures that legal certainty can be realised universally.

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Sutan Remy Sjahdeini, dalam buku Sejarah, Asas, dan Teori Hukum Kepailitan, h. 516-517.