

## LEGAL ANALYSIS OF THE EXCLUSION OF A CREDITOR FROM THE FINAL CREDITOR'S LIST

Sherina Elizabeth Sihombing <sup>a\*)</sup>, Debora <sup>a)</sup>, Jinner Sidauruk <sup>a)</sup>

<sup>a)</sup> Universitas HKBP Nommensen Medan, Medan, Indonesia

<sup>\*)</sup>Corresponding Author: [debora@uhn.ac.id](mailto:debora@uhn.ac.id)

**Article history:** received 21 January 2025; revised 02 February 2025; accepted 04 March 2025 DOI: <https://doi.org/10.33751/jhss.v9i1.11702>

**Abstract.** This study aims to analyze the legal actions that can be taken by creditors who are excluded from the final creditor's list and assess the legal consequences of a bankruptcy ruling if the Renvoi Procedure is granted. The research was conducted using a normative juridical approach through a literature study of primary and secondary legal materials, including Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations, court decisions, and expert opinions. A qualitative analysis technique was employed to interpret the norms, legal principles, and settlement practices in bankruptcy proceedings. The research findings indicate that a delay in submitting a claim by a creditor results in the rejection of that claim by the curator, causing the creditor's rights to be disregarded in the distribution of the debtor's assets. The Renvoi Procedure, as a legal mechanism available, provides the creditor with an opportunity to file an objection so that the rejected claim can be reinstated, without altering the status of the bankruptcy ruling that is binding on all creditors. Therefore, this study concludes that the Renvoi Procedure is an effective tool to address injustice in bankruptcy processes while ensuring the protection of creditor rights.

**Kata Kunci:** bankruptcy, delay in submitting claims, claim rejected by curator, Renvoi procedure

### I. INTRODUCTION

Debt is the core of the legal relationship between a debtor and a creditor. According to Sutan Remy Sjahdeini, debt is defined as an obligation in the form of a sum of money, which may arise from agreements, statutory provisions, or court decisions that have obtained permanent legal force [1]. This definition emphasizes that the debtor-creditor relationship does not solely originate from loan agreements but may also arise from the imposition of sanctions or legal decisions by competent authorities that have binding legal force (*inkracht van gewijsde*). In the context of bankruptcy, the recognition of debt becomes a crucial element.

In Indonesia, the term bankruptcy refers to a legal condition declared by the commercial court in which the debtor is no longer capable of repaying due and collectible debts. Meanwhile, insolvency refers to a court ruling that places all of the debtor's assets under general seizure to fulfill obligations to creditors, both present and future. The provisions regarding bankruptcy in Indonesia are regulated under Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations (UU K-PPPU), which provides a legal framework for creditors and debtors to resolve debt-related disputes through judicial proceedings. The mechanisms provided by UU K-PPPU aim to accelerate bankruptcy proceedings, ensure legal certainty, and establish

a fair legal framework for both debtors and creditors entitled to debt repayment [2].

The bankruptcy procedure begins with the filing of a bankruptcy petition, which may be submitted either by a creditor as the petitioner (compulsory bankruptcy) or by a debtor filing for their own bankruptcy (voluntary bankruptcy) (Ginting, E. R., 2022). The bankruptcy petition must be filed with the commercial court that has jurisdiction over the debtor's legal domicile (UU No. 37 Tahun 2004). According to Article 8, paragraph (4) of UU K-PPPU, the court is obliged to grant the bankruptcy petition if it can be *prima facie* (prima facie) proven that [3]:

1. The debtor has at least two creditors.
2. The debtor has failed to pay at least one due and collectible debt.

Once a bankruptcy petition is granted, the debtor is deemed legally incapable of managing their assets (UU No. 37 Tahun 2004). Consequently, a curator—an independent and neutral party—is appointed in the bankruptcy ruling to manage and administer the bankrupt estate (UU No. 37 Tahun 2004). As the party responsible for managing the bankrupt assets in the interest of creditors, the curator's primary duty is to oversee and complete the liquidation of the bankrupt estate under the supervision of a supervisory judge designated in the bankruptcy ruling [4].

The administration and liquidation of bankrupt assets is a highly complex and time-consuming process. Several parties play a role in this phase, including the debtor as the legal subject obligated to settle their debts, the curator or Balai Harta Peninggalan (BHP) responsible for managing and liquidating the bankrupt assets throughout the bankruptcy process, and the supervisory judge, who oversees the curator's performance and ensures proper execution of the bankruptcy administration and liquidation process. Additionally, creditors must register their claims for verification, and a creditors' committee serves as an advisory board to the curator [5].

One of the critical phases in the bankruptcy process is the creditors' meeting, a formal forum where creditors, the debtor, and the curator convene to align the interests of creditors seeking repayment of their claims with the interests of the financially distressed debtor who is unable to fulfill their obligations. The creditors' meeting serves as the central mechanism in the administration and liquidation of bankrupt assets and must be convened by the curator. In this process, the curator is obligated to notify known creditors about the meeting, either through registered mail or courier, and to announce it in at least two daily newspapers, as stipulated in Article 15, paragraph (4) of UU No. 37 Tahun 2004. This notification is crucial to ensure creditors can participate in the claim verification process and timely register their claims.

In the claim verification process, instances may arise where certain creditors are not accounted for or have not been notified of the bankruptcy ruling, thereby causing financial harm to those creditors. Since the bankruptcy ruling has already obtained binding legal force, such an omission could prevent creditors from participating in the claim list due to delays in registration [6].

Under UU K-PKPU, a creditor who is disadvantaged due to exclusion from the claim list or failure to register their claim in time due to negligence has the right to pursue legal remedies against both the bankrupt debtor and the curator as the administrator of the bankrupt estate.

In light of this, the author is particularly interested in studying the legal remedies available to creditors who are excluded from the final claim list and the legal consequences on the bankruptcy ruling if the *renvoi* procedure is granted by the court.

## II. RESEARCH METHOD

In this study, the author applies a normative juridical research method, relying on written legal sources and analyzing secondary data consisting of primary, secondary, and tertiary legal materials [7]. Consequently, this research focuses on examining legal principles, norms, statutory regulations, and court decisions related to bankruptcy. All collected legal materials are analyzed qualitatively to understand, explore, and interpret legal texts, regulations, and related documents, thereby yielding a comprehensive conclusion [7].

## III. RESULT AND DISCUSSION

### A. Legal Efforts for Creditors Not Included in the Claim List in the Bankruptcy Process

The purpose of bankruptcy is to provide a fair debt settlement between creditors and debtors, ensuring that all creditors have the same opportunity to match their claims. One of the essential elements in the bankruptcy asset management process is the claim list, which is compiled based on the verification process conducted by the curator. Creditors who are aware of the bankruptcy ruling can register their claims with the curator. The law guarantees the professionalism of curators' actions in implementing the bankruptcy process in accordance with the Bankruptcy and Suspension of Debt Payment Obligation Law (UU K-PKPU).

However, in practice, there are creditors who are not included and/or not listed in the claim list because they registered their claims late, which leads to the rejection of their claims by the curator. This is a problem not only faced by creditors but also by curators in performing their duties. This issue may arise from creditors' limited access to the bankruptcy ruling announcement, even though the curator, based on UU K-PKPU, has announced and notified creditors through postal services or direct meetings.

Additionally, negligence on the part of creditors who delay registering their claims with the curator, the lack of information from debtors regarding the parties to whom they owe money, the debtor's lack of openness to the curator, and the debtor intentionally hiding or failing to submit their financial reports are also factors that create difficulties for curators, making it challenging for them to notify all creditors, both domestic and foreign (Interview with Mr. Binsar Simbolon, Curator and Administrator, February 26, 2025).

The exclusion of creditors due to the rejection of their claims by the curator resulting from a late claim registration is legally justified based on Article 133 paragraph (2) of Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligation, which states that "claims submitted after the deadline as referred to in paragraph (1) shall not be matched." However, in practice, a delay in submitting claims within the specified deadline does not automatically prevent the claim from being matched in the debt verification meeting.

The UU K-PKPU still provides a grace period for late claims, allowing them to be submitted no later than two (2) days before the debt verification meeting, as stipulated in Article 133 paragraph (1). In this regard, Curator Binsar Simbolon added that creditors who fail to register their claims on time can report to the supervising judge and the ruling judge, so that an extension of time can be granted for claim registration to ensure that no creditor loses their rights [8].

What happens if the claim is submitted late after the grace period of two (2) days before the debt verification meeting? Explicitly, the UU K-PKPU does not prohibit claims from late-registered creditors from being submitted to the curator. Therefore, the curator does not have the authority to reject the claim registration, even though the debt matching process has been completed and the claim list and types of claims have been included in the verification meeting minutes.

In accordance with the principles of balance and fairness, similar treatment should also be given to all creditors in the Republic of Indonesia [9].

In various articles, the UU K-PKPU regulates the possibility of matching claims that have not been registered or were registered late, which can be carried out after the insolvency bankruptcy assets. This is found in Article 179 paragraph (5) and Article 195 of the UU K-PKPU. Furthermore, as stipulated in Article 179 paragraph (6) of the UU K-PKPU, the matching procedure must be carried out by the curator in accordance with the provisions of Articles 116, 117, 118, and 119 of the UU K-PKPU [10]. Therefore, the curator's action of rejecting a creditor's claim due to late registration constitutes an injustice, especially since the bankruptcy ruling is binding on all creditors, including those not listed.

According to the expert opinion in Decision Number 18/Pdt.Sus-Renvoi/2023/PN Niaga Mdn, the principle of "erga omnes" applies in bankruptcy, meaning the bankruptcy decision will bind everyone (all creditors), even if the creditor is not one of the parties involved in the debtor's bankruptcy petition. This is because bankruptcy serves as a collective tool to settle the debtor's assets in order to pay the debtor's debts to all creditors. In principle, the creditor's claim (the debtor's debt) or the creditor's right to claim will not be extinguished or lost because the claim was not registered on time.

However, for creditors who feel their rights have been lost because they were not included in the claim list, in order to ensure fairness for all parties, disputes related to the matching of claims can be resolved through the court by filing a claim matching request with the chief judge in the commercial court. This legal effort is known as the Renvoi Procedure.

The Renvoi Procedure is a mechanism that allows the resolution of disputes over claims that arise due to the curator's objections after the claims matching process, where an agreement has not been reached between the curator and the creditor. Even after mediation efforts by the supervising judge, if both parties persist in their positions regarding the claim status (Asikin, Z., 2022). In bankruptcy law, the renvoi procedure is regulated in Article 127 of the UU K-PKPU and serves as a control mechanism to maintain balance in the curator's authority, which is very dominant in the bankruptcy process, while still upholding the principle of usefulness (doelmatigheid) [11].

Creditors who were not included in the claim list due to late registration may file a renvoi procedure request with the commercial court within a certain period after the claim list is established. This request must be accompanied by evidence that the creditor has a valid claim against the debtor. One example of this is in the renvoi procedure case with decision number 18/Pdt.Sus-Renvoi/2023/PN Niaga Mdn.

In this case, the creditor filed a lawsuit with the court to be included as a creditor of the bankrupt debtor, as it was not included in the claim list. However, in case number 4/Pdt.Sus-Pailit/2023/PN Niaga Mdn, the bankruptcy petitioner used PT X's claim as one of the considerations for the creditor. The creditor's claim against the debtor arose

from a decision by the Jambi District Court, which ordered the debtor to pay compensation to the creditor for legal violations by the debtor amounting to Rp191,803,261,700.

The purpose of registering a claim is to ensure that the creditor's right to be paid from the bankruptcy assets does not expire [6]. Therefore, to avoid the claim from expiring, the only way a creditor who is excluded from the claim list due to late registration can have their claim matched in the debt verification meeting is by submitting the claim to be matched by the panel of judges in the commercial court through the renvoi procedure.

The examination by the panel of judges will assess whether the creditor has a valid reason to file an objection. Documents and claim evidence will be reviewed to determine if there was any administrative error or violation of the procedures that were set. Therefore, the renvoi procedure becomes an important legal instrument to ensure the principles of justice and legal certainty in bankruptcy.

### *B. Legal Consequences of Granting Renvoi Procedure on Bankruptcy Rulings*

There is a fundamental difference between a bankruptcy ruling and a renvoi procedure ruling. A bankruptcy ruling is the primary decision that determines that a debtor has two or more creditors and is unable to fulfill the obligation to pay at least one due and collectible debt (Law No. 37 of 2004). This decision serves as the legal foundation governing the entire process of managing and settling the bankrupt estate and is final, binding on all parties involved (the principle of erga omnes). In contrast, a renvoi procedure ruling is a legal mechanism provided to resolve disputes related to creditor claims in the claim verification process. For instance, if a creditor submits a claim late and is therefore not included or listed in the final list of claims, the renvoi procedure provides a means for the creditor to file an objection and restore their rights. A renvoi procedure ruling is merely corrective concerning the list of claims and does not alter the legal status of the established bankruptcy ruling.

In other words, although the renvoi procedure can restore a creditor's rights that were previously overlooked due to late submission of claims, it only corrects administrative details. The status of a debtor who has been declared bankrupt remains unchanged, as the bankruptcy ruling itself is a fundamental decision that cannot be altered through the renvoi procedure mechanism. This distinction in function and scope is key, so even if a renvoi procedure ruling grants a claim as valid and requires its recognition in the settlement process, it does not affect or alter the debtor's previously established bankruptcy status (Interview with Mr. Binsar Simbolon, Curator and Administrator, February 26, 2025).

However, the granting of a renvoi procedure petition by the panel of judges in the commercial court will result in the restoration of the creditor's rights concerning their claims, which were previously disputed by the curator at the time of registration. A renvoi procedure petition that is granted by the panel of judges is binding and takes immediate effect [3]. This decision also applies to the bankrupt estate, and the curator must comply with the renvoi procedure ruling. Regarding

creditor rights, creditors whose claims are recognized through the renvoi procedure will have equal standing with other creditors who had previously registered their claims.

#### IV. CONCLUSION

In the bankruptcy process, creditors who are excluded from the list of claims due to a delay in submission still retain the right to pursue legal remedies to assert their claims, as stipulated in Article 127 of Law No. 37 of 2004 on Bankruptcy and Suspension of Debt Payment Obligations. The Bankruptcy and PKPU Law grants creditors the opportunity to file a renvoi procedure as a legal objection against the trustee's decision that rejects or disputes their claims. This mechanism is designed to uphold the principle of fairness by ensuring that all creditors receive equal treatment in the claims reconciliation process. Importantly, the approval of a renvoi procedure does not alter the legal status of the bankruptcy decision itself but serves to reinstate the rights of creditors whose claims were unjustly excluded due to procedural delays. Since the bankruptcy decision remains the principal legal determination that confirms the debtor's inability to fulfill their financial obligations, as set forth in Article 2, paragraph (1) of Law No. 37 of 2004, the renvoi procedure functions solely as a corrective measure to include wrongfully omitted claims in the list of creditors. Consequently, creditors who successfully pursue this procedure regain their rightful position in the liquidation process, ensuring that they receive equitable treatment in the distribution of the bankrupt estate. From a theoretical perspective, the renvoi procedure reflects the principle of procedural justice within bankruptcy law by providing an avenue for creditors to rectify exclusions caused by administrative delays. However, further legal refinements are needed to clearly define the burden of proof and procedural timelines to prevent abuse and ensure efficiency. Practically, trustees and creditors should adopt proactive measures, such as improved communication and digital submission systems, to minimize delays in claim filings. Additionally, legal practitioners should advocate for clearer judicial guidelines on renvoi procedures to enhance consistency in bankruptcy dispute resolution.

#### DAFTAR PUSTAKA

- [1] A. Shaji and M. L. Shilpa, "Navigating personal guarantor liability in insolvency: Transformative and transactional shifts in the legal framework. Multidisciplinary Science," *Journal*, 7(8), 2025493-2025493, 2025.
- [2] H. Matoušková, "The Czech Implementation of the Directive on Preventive Restructuring: A Practical Approach to Individual Moratorium and other Implementation Issues," 2025.
- [3] A. De Vito and M. Jacob, "The role of creditor protection in lending and tax avoidance.," *J. Financ. Quant. Anal.* 58(5), 2096-2130, 2023.
- [4] E. R. Ginting, *Hukum Kepailitan: Rapat-Rapat Kreditor*. Jakarta: Sinar Grafika, 2022.
- [5] E. R. Ginting, *Hukum Kepailitan: Pengurusan dan Pemberesan Harta Pailit*,. Jakarta: Sinar Grafika, 2022.
- [6] E. R. Ginting, *Hukum Kepailitan: Teori Kepailitan*,. Jakarta: Sinar Grafika, 2022.
- [7] Muhaimin, *Metode Penelitian Hukum*,. Nusa Tenggara Barat: Mataram University Press, 2020.
- [8] P. A. Târu, "List of Indispensable Creditors in Insolvency Proceedings. Constituent Elements of the Crime of Fraudulent Bankruptcy.," *Conferința Internațională Educ. și Creat. pentru o Soc. Bazată pe Cunoaștere-DREPT*, 16(XVI), 117-121., 2022.
- [9] G. Dugar, "Directors' liability to creditors under insolvency law: A Slovenian perspective.," *Eur. Co. Case Law (ECCL)*, 1(2), 163-174., 2023.
- [10] J. Cepec and P. Grajzl, "Creditors, plan confirmations, and bankruptcy reorganizations: lessons from Slovenia.," *Eur. Bus. Organ. Law Rev.* 22(3), 559-589., 2021.
- [11] I. D. A. Suci, "Karakteristik Hukum Acara Renvoi Prosedur dalam Perkara Kepailitan," Universitas Jember, 2018.