



Case Study of Dispute Resolution in Delayed Payment of Debts Due to Force Majeure and Covid 2019

Muhammad Ali

STIT PL Gunung Tua

E-mail: mr.alimohammed04@gmail.com

Info Articles	Abstract
Article History Received : 2024-04-15 Revised: 2024-04-18 Published: 2024-05-30 Keywords: <i>Dispute, debt, Force majeure, covid 19</i>	<p>The Covid-19 pandemic has caused various economic impacts, including delays in debt payments that have triggered legal disputes. This study aims to evaluate the resolution of disputes related to delays in debt payments due to Force Majeure conditions caused by the Covid-19 pandemic. Using normative legal research methods, this study analyzes relevant legal provisions, contracts, and court decisions related to Force Majeure cases in the context of the pandemic. This study also evaluates how positive law in Indonesia regulates and interprets Force Majeure in a pandemic situation. The results of the study indicate that the Covid-19 pandemic can be considered a Force Majeure condition in several cases, depending on the provisions of the contract and the judge's interpretation. Some courts grant a delay or exemption from payment obligations, while others reject the application if there is no Force Majeure provision in the contract or if the reasons submitted are considered ineligible. In conclusion, although Covid-19 can be recognized as Force Majeure, its effectiveness as a legal basis for delaying payments is highly dependent on the provisions of the contract and the judge's assessment. This study recommends writing a clearer Force Majeure clause in the contract to avoid future disputes.</p>

I. INTRODUCTION

The COVID-19 pandemic, which began to spread at the end of 2019 and spread globally throughout 2020, has had a very significant impact on various aspects of life, including the economic and business sectors. (Hidayatullah & Anwar, 2020). Many companies around the world are facing major challenges in maintaining their operational continuity. One of the problems that has emerged as a consequence of this pandemic is the delay in payment of accounts receivable. This situation is often claimed to be the result of Force Majeure, a situation that is beyond control and cannot be anticipated in advance.

Force majeure is a legal concept that allows parties to an agreement to postpone or even exempt themselves from their contractual obligations if extraordinary circumstances arise that prevent the implementation of the agreement. (Ramadani et al., 2024). In the context of the COVID-19 pandemic, many companies are using Force Majeure as an excuse to delay the payment of their accounts receivable, arguing that the pandemic has drastically disrupted business activities.

However, the use of Force Majeure as a reason for delaying debt payments is not always accepted

by all parties. There are different views and interpretations regarding whether the COVID-19 pandemic falls into the category of Force Majeure and how it is applied in the context of debts. This then gives rise to various disputes between creditors and debtors that must be resolved through legal mechanisms.

This case study will examine various aspects related to dispute resolution in cases of delay in payment of debts due to Force Majeure and the COVID-19 pandemic. This study aims to provide a deeper understanding of how Force Majeure is interpreted and applied in the context of the pandemic, as well as how dispute resolution is carried out to achieve a fair solution for all parties involved.

II. RESEARCH METHODS

This study uses a normative legal approach to analyze dispute resolution in cases of delays in debt payments due to Force Majeure, especially in the context of the Covid-19 pandemic. The normative legal method aims to explore and interpret applicable legal rules, legal principles, and legal doctrines relevant to the Force Majeure situation and its impact on payment obligations in debt contracts.

III. RESULTS AND DISCUSSION

A. Legal definition of Force Majeure in the context of Indonesian law

Force majeure is a concept in contract law that refers to an extraordinary situation or condition that occurs after an agreement is made and prevents one party, in this case the debtor, from fulfilling its obligations or performance in accordance with the provisions of the agreement. Force majeure can be a natural event, government action, war, riot, or other event that is beyond human control and cannot be predicted or avoided by the debtor. In a force majeure situation, the debtor cannot be blamed for his failure to fulfill the performance agreed upon in the agreement. This is because the debtor is in a situation that is completely beyond his control, so he cannot be forced to bear the risk or responsibility for such inability. Furthermore, the debtor is also not required to pay compensation to the creditor, because force majeure is recognized as a condition that frees the debtor from such responsibility (Ramadani et al., 2024).

Force majeure covers various unforeseen events that may occur, such as natural disasters (earthquakes, floods, volcanic eruptions), government actions (embargoes, sudden changes in policy), or other events that could not be predicted at the time the agreement was made. (Tarigan, 2022). For example, in the case of the COVID-19 pandemic, many companies are unable to fulfill their contracts due to lockdowns or other restrictions imposed by the government to control the spread of the virus. In this context, the pandemic can be considered a force majeure that frees the company from the obligation to fulfill the contract without being subject to sanctions or fines.

However, it is important to note that in order to claim force majeure, the debtor must be able to prove that the event that occurred was truly beyond their control and that they had taken all reasonable steps to try to fulfill their obligations despite the constraints. In addition, a force majeure clause usually has to be explicitly stated in the agreement in order to be used as a basis for exemption from liability. (Ramadani et al., 2024).

The force majeure clause should also clearly define what conditions constitute force majeure and the procedures that the affected party must follow to claim relief from obligations. Without a clear clause, the use of force majeure as an excuse for failure to fulfill performance can be disputed and potentially lead to disputes between the

parties involved in the agreement. (Tarigan, 2022).

Thus, force majeure is a legal protection given to debtors in situations that are truly unavoidable or unpredictable, so that they do not have to bear the burden of responsibility for their inability to fulfill their contractual obligations. (Alifadina, 2023). This is important to maintain balance and fairness in contractual relationships, especially in the face of extraordinary events that are beyond human control.

In the Indonesian Civil Code (KUH Perdata), the term force majeure is not explicitly mentioned or defined. However, this concept is implicitly contained in several provisions governing compensation, risks in unilateral contracts in force majeure, and in sections governing special contracts. The term force majeure is derived from the interpretation of these provisions, as well as from legal theories, doctrines, and jurisprudence that have developed in Indonesia and in other countries with similar legal traditions.

Several articles in the Civil Code that can be used as a guideline for understanding the concept of force majeure include Articles 1244, 1245, 1545, 1553, 1444, 1445, and 1460. These articles provide a legal basis for parties bound by an agreement to request release from responsibility or compensation when unforeseen circumstances occur that are beyond their control.

Article 1244 of the Civil Code, for example, explains the obligation to pay compensation and interest by the debtor if he cannot prove that his failure to fulfill his obligations was caused by an unexpected and unavoidable event. This article contains the basic principle of force majeure, namely that the debtor must be released from responsibility if his inability to fulfill his contractual obligations is caused by circumstances that are truly beyond his control and could not have been predicted when the agreement was made. Here are some related articles that can be explained further:

a. Article 1244 of the Civil Code

This article regulates the obligation to pay compensation and interest if the debtor cannot prove that there was an unexpected obstacle that caused his failure to fulfill his obligations. This article emphasizes that evidence of force majeure is the basis for exemption from the obligation to pay compensation.

b. Article 1245 of the Civil Code

This article provides additional provisions that the debtor also does not need to pay compensation if the performance cannot be

fulfilled due to unforeseen reasons and beyond his control. This confirms that situations beyond control that could not be predicted at the time the agreement was made can be a legitimate reason for exemption from liability.

c. Articles 1444 and 1445 of the Civil Code

These articles regulate special conditions in the contract that can release the parties bound by the agreement from their obligations.

d. Article 1460 of the Civil Code

This article talks about the risks in a sale and purchase agreement, where the risk of loss due to unavoidable extraordinary circumstances will be borne by the party who owns the goods at the time of the incident.

The concept of force majeure in this context is widely recognized in legal practice as a protection for parties who are unable to fulfill their obligations due to events beyond their control. This understanding is not only derived from existing articles, but is also supported by legal doctrine taught by legal experts and court decisions that provide precedents (jurisprudence) on how force majeure is applied in concrete cases.

The doctrine of force majeure is important to ensure that innocent parties do not have to bear unfair burdens due to events that they could not control or avoid. Therefore, although the Civil Code does not mention the term force majeure explicitly, this concept is still recognized and applied through the interpretation of existing provisions, as well as developing legal theory and practice.

B. Impact of the COVID-19 Pandemic as Force Majeure

The COVID-19 pandemic meets the criteria for Force Majeure because it is characterized as an event that is unpredictable and beyond the control of the parties to the contract. Force majeure is a legal concept that refers to an extraordinary event that prevents one or both parties to an agreement from fulfilling their obligations. In the context of the COVID-19 pandemic, the virus is spreading rapidly around the world, causing significant impacts on public health and the global economy (Agung, 2020).

The rapid spread of the virus has forced governments in various countries to take drastic measures such as lockdown policies, social restrictions, and the closure of various business sectors. These measures are intended to control the spread of the virus and protect public health. However, these measures have also resulted in severe economic disruption. Business closures,

reduced working hours, and layoffs have become common phenomena during the pandemic. This has caused many companies to experience a drastic decline in their revenues, while operating costs must continue to run. (Sari & Nurhuda, 2023).

In the context of accounts receivable, the economic impact of the pandemic has left many borrowers unable to repay their loans on time or at all. The loss of income due to business closures or reduced economic activity has left borrowers in a very difficult position to meet their financial obligations. This is where the Force Majeure claim comes into play as a legal argument. Debtors can use Force Majeure as a reason to delay or even cancel their payment obligations because the pandemic is an extraordinary event beyond their control.

Legally, the application of Force Majeure in the context of the COVID-19 pandemic requires a thorough analysis of the relevant contract, including the Force Majeure clause contained in the contract. Each jurisdiction may also have different interpretations and applications of Force Majeure law. Therefore, it is essential for companies and individuals seeking to file a Force Majeure claim to consult with a legal expert who understands the legal context in their jurisdiction. (Nengsih et al., 2024).

Thus, the COVID-19 pandemic, as an unpredictable and uncontrollable event, meets the criteria of Force Majeure and can be used as a basis for suspending or waiving contractual obligations in various contexts, including accounts receivable. However, any Force Majeure claim must be supported by strong evidence and comprehensive legal analysis to ensure that the argument is acceptable to the parties and, if necessary, to the courts.

a. Global Uncertainty and Economic Disruption

The COVID-19 pandemic has caused widespread uncertainty across the world. Many countries have imposed travel restrictions, lockdowns, and temporary closures of various business sectors. These measures were taken to limit the spread of the virus, but at the same time, they have caused significant economic disruption. Businesses of all sizes have seen their revenues drop drastically, and many have been forced to temporarily or even permanently close operations.

b. Supply Chain Disruption

Global supply chains have been disrupted by the pandemic. Factories in hard-hit countries have been shut down, international shipping has been

delayed, and access to raw materials has been limited. As a result, many companies have struggled to meet customer demand and fulfill their contractual obligations, often leading to Force Majeure claims.(Nengsih et al., 2024) .

c. Contractual Obligations

In many business contracts, the COVID-19 pandemic is classified as Force Majeure , which allows the parties to postpone or cancel their obligations without penalty. This is especially important for sectors such as tourism, manufacturing, and trade, where the inability to carry out normal operations is unavoidable. For example, event organizers have had to cancel or postpone major events, and construction companies have been unable to proceed with their projects as scheduled.

d. Changes in Employment

The pandemic has also impacted the global workforce. Many companies have been forced to lay off or furlough employees due to the decline in business. On the other hand, there has also been an increase in remote working, which has significantly changed the dynamics of the workplace. Adapting to this new work model also brings new challenges in terms of productivity and human resource management.

e. Government Support and Public Policy

In response to the economic impact of the pandemic, many governments have introduced stimulus packages and support policies to help businesses and individuals affected. These include direct financial assistance, low-interest loans, and tax relief policies. However, many small and medium-sized businesses continue to face tremendous difficulties in order to survive.

f. Innovation and Adaptation

In the midst of the crisis, many businesses innovated and adapted to survive. For example, many restaurants turned to food delivery services, and technology companies accelerated the development of digital solutions to support remote work. The pandemic has accelerated digital transformation across sectors, creating new opportunities despite the difficult situation.(Firdaus et al., 2021).

The COVID-19 pandemic as a Force Majeure has changed the global business landscape in profound ways. Its impact is felt in almost every aspect of life, from the economy and employment to supply chains and technological innovation. Despite the many challenges faced, policy adaptations and support have helped many

businesses and individuals survive and thrive in this new era of uncertainty.(Adif, 2022).

The COVID-19 pandemic has been widely recognized as a Force Majeure event due to its unexpected nature and widespread impact. Many countries have imposed lockdowns, social restrictions, and other measures to curb the spread of the virus. These measures have resulted in major disruptions to business operations, supply chains, and people's purchasing power. As a result, many companies are facing severe financial difficulties, affecting their ability to meet their debt repayment obligations.

In the context of contract law, Force majeure can be used as a legitimate reason to delay or even cancel contractual obligations without being subject to legal sanctions. This concept is usually included in the Force majeure clause in the contract, which lists various events that are considered Force majeure, such as natural disasters, war, and pandemics. The COVID-19 pandemic, as a highly disruptive event, often meets these criteria.(Alifadina, 2023).

However, the application of a Force Majeure clause is not automatic. A party claiming Force Majeure must prove that the pandemic directly resulted in their inability to fulfill their contractual obligations. For example, a company that is unable to pay debts due to a pandemic-related shutdown must show that there was no other possible way to fulfill the obligation.

When debtors claim Force Majeure, they are essentially asking for relief from their obligation to pay debts for a certain period or even requesting debt restructuring. This process is not simple and requires a thorough assessment by a court or arbitrator.(Ramadani et al., 2024). To accept a Force Majeure claim, the court or arbitrator will consider several key factors which are explained in detail as follows:

a. Causality (Causality)

1) Causal Relationship Assessment: The court will assess whether there is a direct causal relationship between the COVID-19 pandemic and the debtor's inability to fulfill its obligations. The debtor must prove that the failure to fulfill contractual obligations is a direct result of the pandemic and not caused by other unrelated factors.

2) Concrete Evidence: Debtors must present concrete evidence showing that the pandemic has had a direct impact on their business operations. This may include

decreased sales, disruptions to supply chains, or business closures imposed by government policies related to the pandemic.

b. Mitigation

- 1) Mitigating Impact: Debtors must demonstrate that they have taken reasonable steps to mitigate the impact of Force Majeure. This may include seeking alternative funding sources such as emergency loans, government assistance, or new investors.
- 2) Reduction of Operating Costs: Debtors must demonstrate their efforts to reduce operating costs, such as making temporary workforce reductions, reducing salaries, or postponing non-urgent projects.
- 3) Negotiations with Creditors: Debtors must also demonstrate that they have attempted to negotiate a payment suspension or debt restructuring with creditors before filing a Force Majeure claim.

c. Documentation

- 1) Financial Statements: Debtors must present financial statements showing the impact of the pandemic on their income and cash flow. These statements must be accurate and up-to-date to provide a clear picture of the debtor's financial condition.
- 2) Communication with Creditors: Evidence of communication with creditors, such as emails or official letters showing negotiation efforts, is essential to support a Force Majeure claim.
- 3) Evidence of Direct Impact: In addition to financial statements, debtors will need to provide other evidence that shows the direct impact of the pandemic on their business. This may include government business closure notices, reports of decreased sales, or evidence of supply chain disruptions (Ongkowitz & Setiawan, 2021).

By considering these factors, the court or arbitrator will be able to assess whether the debtor's Force Majeure claim is acceptable. It is important to remember that each Force Majeure case will be assessed based on its specific facts, and the final decision will depend on how well the debtor can prove that the COVID-19 pandemic directly prevented them from fulfilling their contractual obligations. Therefore, debtors should prepare strong documents and evidence and

consult with legal experts to maximize the chances of success of their claim. (Alifadina, 2023).

C. The role of courts in resolving disputes related to Force Majeure

The COVID-19 pandemic has triggered many complex debt disputes that require in-depth legal handling. In this unprecedented economic situation, many debtors are trying to use Force Majeure clauses as a basis for requesting a delay or even exemption from their debt payment obligations. Force Majeure clauses themselves are usually included in contracts to protect the parties involved from obligations that cannot be fulfilled due to events beyond their control, such as natural disasters, war, or global health crises. (Nengsih et al., 2024).

In the context of the COVID-19 pandemic, debtors may argue that the pandemic constitutes a Force Majeure event because it has caused significant disruption to their business operations. (Ramadani et al., 2024). They may experience forced closures, drastic declines in revenue, or supply chain disruptions that make it impossible for them to meet their debt service obligations. As such, they seek deferrals or waivers from debt obligations as a mitigating measure to maintain their business continuity amidst the difficult situation.

However, creditors often reject Force Majeure claims made by debtors. From the creditor's perspective, the argument often put forward is that even if the pandemic did have a significant impact, debtors may still have alternative means of meeting their obligations. (Alifadina, 2023). Creditors may argue that government assistance, business adjustments, or other sources of income can be used to pay off debts. In addition, creditors may also argue that the impact of the pandemic has not completely prevented the debtor from meeting their obligations, especially if their business is in a sector that can continue to operate or adapt to new conditions.

These types of disputes often end up in court, where a judge must make a decision based on the evidence and arguments presented by both parties. The judge must determine whether the COVID-19 pandemic meets the criteria for Force Majeure in the context of the contract and the specific circumstances faced by the debtor. This decision is not always easy, as it involves a variety of complex factors that are often unique to each case. (Ramadani et al., 2024).

One of the main factors considered by the judge is the content of the Force Majeure clause in the contract in question. This clause must be

examined carefully to see whether the pandemic falls within the definition of a Force Majeure event agreed to by both parties. In addition, the judge will also consider the specific impact of the pandemic on the debtor's business. Was their business truly unable to operate or did they simply experience a decrease in revenue? Were there any efforts made to adjust their operations to the conditions of the pandemic?

In addition, the steps taken by the debtor to try to meet their obligations are also important considerations. Have they attempted to find alternative solutions, such as debt restructuring, seeking additional loans, or negotiating with creditors for payment adjustments? The judge will assess whether the debtor has acted in good faith and made every reasonable effort to meet their obligations despite significant challenges.

Thus, resolving debt disputes triggered by the COVID-19 pandemic requires in-depth legal analysis and a comprehensive understanding of the specific circumstances of each case. The court must balance the interests of both parties and ensure that the decisions taken are fair and in accordance with applicable laws. The pandemic has added a new layer of complexity to the resolution of legal disputes, and court decisions in these cases will set important precedents for handling similar situations in the future.

The court has a very important role in resolving disputes related to Force Majeure. Force Majeure is a condition or event that occurs beyond the control of the parties involved in an agreement, resulting in the inability to fulfill contractual obligations. This situation usually includes natural disasters, war, riots, and other unexpected and unavoidable events. In the legal context, the court acts as an institution that decides whether the situation can be categorized as Force Majeure and how to resolve it.(Alifadina, 2023).

The following is the role of the court in resolving disputes related to Force Majeure:

1. Assessing Force Majeure Qualifications

The court process that assesses a Force Majeure claim, the first step taken is to assess whether the event that is the basis for claiming Force Majeure meets the criteria set out in the contract or applicable law. The court will conduct an in-depth examination of the facts related to the incident.

First, the court will examine the timing of the event to ensure that it occurred during the term of the contract and within the relevant time context. This is important to determine whether the event

actually affected the performance of the contractual obligations at the appropriate time.

Next, the court will assess the impact of the event. This includes looking at the extent to which the event hinders or makes impossible the performance of contractual obligations. The court will consider evidence showing the direct and indirect effects of the event on the ability of the parties involved to fulfill their obligations.

The court will also assess whether the event was truly beyond the control of the parties. This is a key element in a Force Majeure claim. The court will examine whether the event could not have been avoided or prevented even though the parties had taken reasonable precautions. This includes analyzing the steps taken by the parties before and during the event to reduce or avoid the impact of the event.(Nengsih et al., 2024).

In addition, the court will examine whether the event is explicitly mentioned in the Force Majeure clause in the contract, or whether the event meets the definition of Force Majeure under applicable law. If the contract has a list of events that are considered Force Majeure, the court will compare the event to that list to determine whether the claim is valid.(Nengsih et al., 2024).

Through the examination of these facts, the court seeks to ensure that the decision taken is based on a thorough analysis and in accordance with the provisions of the contract and applicable law. Only after all the facts are considered and analyzed can the court decide whether or not the Force Majeure claim is acceptable.

2. Determining Legal Implications

After assessing the qualifications of Force Majeure and ensuring that the event meets the criteria set out in the contract or applicable law, the court then determines the legal implications of the event on the existing agreement. This step involves further analysis of how the Force Majeure event affects the rights and obligations of the parties to the contract.(Nengsih et al., 2024).

First, the court will consider the temporary relief from contractual obligations. In many cases, force majeure can cause a delay in the performance of obligations without canceling them completely. The court will evaluate whether the event only causes a temporary obstacle that can be overcome by a delay in the performance of the obligations. If so, the court may decide to grant an extension of time to the affected party to fulfill its obligations after conditions return to normal.(Nengsih et al., 2024).

Second, if the Force Majeure event has a more significant impact and causes a permanent

inability for one party to fulfill its obligations, the court may consider a permanent release from contractual obligations. In this scenario, the court will determine that the affected party is no longer responsible for fulfilling the obligations affected by the Force Majeure event due to conditions beyond its control that cannot be overcome (Alifadina, 2023).

Third, the court may decide to adjust the obligations of the parties under the contract. This may include changing the terms of the contract to reflect the new circumstances caused by the Force Majeure event. For example, if the costs of performing obligations increase significantly as a result of the event, the court may order a price adjustment or other terms that are fair to both parties. (Alifadina, 2023).

Fourth, in more extreme cases, the court may decide to cancel the contract altogether. This usually happens if the Force Majeure event makes the performance of the contract impossible or unreasonable for both parties. Cancellation of the contract means that both parties are released from all remaining contractual obligations and the contract is deemed to be no longer valid. The court will consider the impact of this cancellation on both parties and ensure that the decision is fair and proportionate. (Alifadina, 2023).

In addition, the court will also review any specific clauses in the contract that regulate Force Majeure to ensure that the decisions taken are in accordance with the provisions agreed by the parties. (Gulo et al., 2024). The courts seek to ensure that the interpretation of contracts is carried out in a fair and balanced manner, taking into account the original intentions of the parties and the conditions existing at the time the contract was made. Thus, through a careful and thorough process, the courts determine the legal implications of the Force Majeure event on the existing agreement, with the aim of achieving justice for all parties involved.

3. Enforcing Contract Terms

Many business contracts specifically include a Force Majeure clause that serves as a guideline for dealing with unforeseen events that may disrupt the performance of contractual obligations. This clause usually explains what is considered a Force Majeure event, the procedures that must be followed by the affected party, and the legal impact of the event on the parties' obligations (Gulo et al., 2024).

First, Force majeure clauses often specifically mention the types of events that can be categorized as Force majeure, such as natural

disasters (earthquakes, floods, storms), armed conflicts, sudden government policies, labor strikes, disease outbreaks, and so on. By including this list, the parties have clear guidance on what events can trigger the application of the Force majeure clause. (Alifadina, 2023).

Second, the clause usually sets out the procedures that the party affected by the Force Majeure event must follow. For example, the party may be required to provide immediate written notice to the other party, explaining the nature and impact of the event, and the estimated time during which the event is expected to affect their ability to fulfill their contractual obligations. These procedures are intended to ensure good communication and transparency between the parties. (Ramadani et al., 2024).

Third, the Force Majeure clause also regulates the legal impact of the Force Majeure event on the contractual obligations of the parties. This can include the suspension of the performance of obligations without being subject to sanctions, temporary release from obligations, or even permanent release depending on the duration and impact of the event. This clause can also regulate the rights and obligations of the parties during the Force Majeure period, such as the obligation to minimize the impact of the event and seek alternative solutions. (Ramadani et al., 2024).

Courts, when faced with cases involving Force Majeure claims, will enforce the provisions of the Force Majeure clause in a contract in accordance with the parties' intentions as stated in the contract. This means that the courts will read and interpret the clause carefully to understand what the parties intended and expected at the time they entered into the contract. The courts will consider the wording of the clause, the context in which the contract was entered into, and the conduct and actions of the parties before and during the Force Majeure event. (Ramadani et al., 2024).

However, the court must also ensure that the provisions of the Force Majeure clause do not conflict with the law or public policy. If any provision of the clause is deemed to violate applicable law or public policy, the court has the right not to enforce it. For example, if the clause attempts to eliminate the full liability of one party without taking into account the principle of equity, the court may refuse to enforce the provision and seek a more equitable solution for both parties.

In enforcing a Force Majeure clause, the court aims to strike a balance between respecting the contractual agreements made by the parties and

ensuring that the decisions taken remain fair and in accordance with applicable legal principles. Thus, the court not only functions as an interpreter of the contract, but also as a guardian of justice and fairness in resolving contractual disputes.

4. Mediating and Facilitating Negotiations Courts can also play a role in mediating between the parties to reach a fair and reasonable settlement.(Sariffudin & Fida, 2023). The role of mediation is very important, especially in situations where the litigation process can be long, complicated and expensive. With mediation, the court helps the parties to find a solution that is satisfactory to both parties without having to go through the entire formal trial process.

The court may encourage the parties to renegotiate the terms of the existing contract or even reach a new agreement that is more appropriate to the existing conditions. This is particularly relevant in the context of Force Majeure, where unforeseen events beyond the control of the parties may make the performance of the contract impossible or extremely difficult.

In the mediation process, the court acts as a neutral party that facilitates communication and negotiation between the parties. The court can provide advice and guidance based on applicable law, and help the parties understand each other's positions and interests. In this way, the parties can work together to find creative and practical solutions, which may not be possible through conventional litigation processes.(Sariffudin & Fida, 2023).

Additionally, court-facilitated mediation can help maintain good relations between the parties. In many cases, the parties may have a business or personal relationship that they wish to maintain, and mediation offers a more collaborative and non-confrontational way to resolve disputes. By reaching an agreement peacefully and voluntarily, the parties are more likely to be satisfied with the outcome and more committed to following through on the agreement.

Thus, the role of the courts in mediation highlights the importance of alternative approaches to dispute resolution that are more efficient, cost-effective and better accommodate the needs and interests of the parties.

5. Determining Damages or Compensation

If one party suffers a loss due to a Force Majeure event, the court has the authority to decide on the award of appropriate damages or compensation. This decision is based on a thorough evaluation of the extent to which the

party was affected by the unforeseen event and whether there are steps that can be taken to mitigate the loss.(Ramadani et al., 2024).

The court will consider various factors in making a decision regarding damages or compensation.(Sariffudin & Fida, 2023). First, the court will assess the direct impact of the Force Majeure event on the contractual obligations held by the injured party. This includes an evaluation of how significant the loss is, whether the loss is temporary or permanent, and its long-term impact on the party's business operations or personal interests.

Next, the court will consider whether the injured party has made reasonable efforts to mitigate its losses. This means that the party must show that it has taken reasonable steps to reduce the negative impact of the Force Majeure event. For example, if there were alternatives available to meet contractual obligations or mitigate losses, the injured party must show that it has explored and tried those options.

In addition, the court will consider any Force Majeure clause that may exist in the contract governing the relationship between the parties. This clause usually includes a definition of a Force Majeure event, as well as the rights and obligations of each party in dealing with such a situation. The court will assess whether the event that occurred does indeed fall within the agreed definition of Force Majeure, and whether there are specific provisions regarding damages or compensation in the clause.(Alifadina, 2023).

If the court decides to award damages or compensation, the amount and form will depend largely on the specific circumstances of the case. Damages can be a monetary payment to cover the financial loss suffered, while compensation can include other forms such as an extension of time to fulfill contractual obligations or an adjustment to the terms of the contract.(Sariffudin & Fida, 2023).

Thus, the court plays an important role in ensuring that the party harmed by the Force Majeure event receives proper justice. The court's decision aims to balance the interests of the parties, taking into account all relevant factors and ensuring that the damages or compensation awarded reflect the actual losses suffered and the mitigation efforts that have been made.

6. Providing Legal Certainty

By deciding on a Force Majeure dispute, the court provides legal certainty for the parties involved. The court's decision not only resolves the current dispute but also plays an important

role in forming a clearer and more focused legal framework. This legal certainty helps the parties understand their rights and obligations in situations involving Force Majeure, as well as providing guidance on how to deal with similar events in the future.(Alifadina, 2023).

Court decisions resulting from Force Majeure cases often become legal precedents. These precedents can be used as a reference by the parties, lawyers, and courts in handling similar disputes in the future. With precedents, the parties have more concrete guidance on how the law is applied in the context of Force Majeure, which in turn can reduce uncertainty and risk in contractual relationships.(Alifadina, 2023).

In addition, the precedents set by the courts help guide parties on how to draft clearer and more detailed contracts in the future. Parties can learn from previous cases and ensure that their contracts include more specific provisions regarding Force Majeure. This includes a more precise definition of what is considered Force Majeure, the procedures to be followed if such an event occurs, and how damages or compensation will be handled.(Alifadina, 2023).

By drafting a clearer and more detailed contract, the parties can minimize the potential for future disputes. They can include a Force Majeure clause that covers various important aspects, such as the obligation to notify the other party immediately after the event occurs, mitigation steps to be taken, and procedures for adjusting the terms of the contract. This not only increases clarity and transparency in the contractual relationship but also helps in maintaining good business relations between the parties.(Alifadina, 2023).

Furthermore, court decisions on Force Majeure can also provide insights into the broader interpretation of the law. For example, courts may consider factors such as the degree of reasonable uncertainty, the reasonableness of the aggrieved party's mitigation efforts, and the relevance of the event to the performance of the contract. These insights can assist parties and their legal counsel in understanding how the law is practiced and applied, and provide a basis for better legal strategy.(Sariffudin & Fida, 2023).

Thus, the court functions as a neutral and authoritative arbitrator to ensure that the rights and obligations of the parties are respected in accordance with applicable law. The court also plays a role in balancing the interests of the parties, especially in complex and unexpected situations such as Force Majeure. Thus, the role of

the court is crucial in resolving disputes related to Force Majeure, providing legal certainty, and maintaining justice in contractual relationships.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Case studies on dispute resolution of debt payment delays due to Force Majeure and the COVID-19 pandemic show that the pandemic situation is categorized as a legitimate Force Majeure event, causing the parties to be unable to fulfill their contractual obligations. Recognition of Force Majeure in contracts is important to protect affected parties and encourage flexible and adaptive dispute resolution. Dispute resolution processes, such as negotiation, mediation, or arbitration, are often more effective and efficient than litigation in dealing with constraints caused by emergencies such as a pandemic

B. Suggestion

It is recommended that parties involved in business contracts clearly set out Force Majeure clauses, including definitions and procedures to be followed in the event of an event beyond their control, such as a pandemic. It is also important for parties to use alternative dispute resolution methods, such as mediation or arbitration, which are more flexible and faster than litigation in court. This will help maintain business relationships, reduce the risk of prolonged conflict, and ensure fairness and legal certainty for all parties involved.

REFERENCE LISTAN

- Adif, R. M. (2022). Kewirausahaan sebagai Pahlawan Tanpa Tanda Bintang selama Krisis Ekonomi COVID-19: Perspektif Indonesia. *Jurnal Informatika Ekonomi Bisnis*, 46–52.
- Agung, I. M. (2020). Memahami pandemi covid-19 dalam perspektif psikologi sosial. *Psikobuletin: Buletin Ilmiah Psikologi*, 1(2), 68–84.
- Alifadina, T. (2023). *Force Majeure dalam Pelaksanaan Perjanjian sebagai Upaya Preventif Permohonan Pailit Secara Premature (Studi Kasus Putusan Nomor 24/Pdt. Sus-PKPU/2022/PN Niaga Sby)*. Universitas Islam Indonesia.
- Firdaus, I. T., Tursina, M. D., & Roziqin, A. (2021). Transformasi Birokrasi Digital Di Masa Pandemi Covid-19 Untuk Mewujudkan Digitalisasi Pemerintahan Indonesia. *Kybernan: Jurnal Studi Kepemerintahan*, 4(2),

- 226–239.
- Gulo, B. J. S., Sriyanto, M. R., & Rokhim, A. N. (2024). Analisis Wanpretasi Indonesia terhadap Perdagangan Internasional yang disebabkan oleh Peperangan Negara Palestina dan Israel. *Jurnal Kewarganegaraan*, 8(1), 734–749.
- Hidayatullah, F., & Anwar, K. (2020). Hybrid learning dalam pembelajaran pendidikan jasmani sekolah dasar dan menengah maupun pendidikan olahraga perguruan tinggi. *Prosiding SENOPATI (Seminar Olahraga Dalam Pendidikan Teknologi Dan Inovasi)*, 1(1), 10–16.
- Nengsih, Y. M., Firmantoro, Z. A., Khutub, M., & Machmud, A. (2024). Penggunaan Alasan Force Majeur dalam Pemutusan Hubungan Kerja (PKWT) di Masa Pandemi Covid-19 Menurut UU No. 11/2020 Cipta Kerja. *IKRA-ITH HUMANIORA: Jurnal Sosial Dan Humaniora*, 8(1), 425–436.
- Ongkowijoyo, I. Y., & Setiawan, Y. E. (2021). Pertanggungjawaban pelaku usaha jasa keuangan terhadap kerugian debitur terdampak coronavirus-disease yang disebabkan penolakan/pembiaran restrukturisasi debitur. *Jurnal Education And Development*, 9(2), 78–87.
- Ramadani, S. F., Rahman, S., & Abbas, I. (2024). Force Majeure Dalam Kontrak Perjanjian Hutang Piutang Berdasarkan KUHPerdota. *Journal of Lex Theory (JLT)*, 5(2), 552–566.
- Sari, I., & Nurhuda, C. M. (2023). Beradaptasi dan bertahan: Strategi pedagang kaki lima di Kota Palopo pasca pandemi Covid-19. *Jurnal Mirai Management*, 8(2).
- Sariffudin, A., & Fida, I. A. (2023). Efektivitas Upaya Hakim Sebagai mediator Dalam Penyelesaian mediasi Perkara Perceraian di Pengadilan agama Kota Probolinggo kelas IB. *USRAH: Jurnal Hukum Keluarga Islam*, 4(1), 30–45.
- Tarigan, J. (2022). COVID-19 SEBAGAI PEMBEBASAN PRESTASI KONTRAK INTERNASIONAL. *Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia*, 4(3), 1–11.