

1. Introduction

Corona Virus Disease 2019 (Covid-19) is a new type of virus caused by the Presence of Severe Acute Respiratory Syndrome Corona Virus-2 (SARS-CoV-2) virus in the human respiratory system.¹ The World Health Organization (WHO) has officially declared Covid-19 as a global pandemic on March 11, 2020.² The dilemma of various countries in overcoming Covid-19 has made the government and even the public feel anxious and lost that has an impact on health and the economy.³ In response to the increasing number of victims and losses from various aspects, President Joko Widodo issued Presidential Decree Number 12 of 2020 concerning the Determination of Non-Natural Disasters of the Spread of Covid-19 as a National Disaster (Keppres 12/2020).

The definition of a national disaster is not explicitly regulated in Indonesian legislation. However, The Act Number 24 of 2007 concerning Disaster Management (The Act 24/2007) regulates several indicators in determining the status and level of national and regional disasters, including the number of victims, property losses, damage to facilities and infrastructure, wide coverage of areas affected by disasters, and the resulting socio-economic impact⁴ Based on data submitted by the Ministry of Health from December 30, 2019, to April 12, 2020, the number of Covid-19 transmissions continues to increase, with 4,241 confirmed positive cases of Covid-19, of which 373 people died.⁵ According to the data above, President Joko Widodo's action on April 13, 2020, by establishing Covid-19 as a national disaster was under the indicators for determining a national disaster.⁶

On the other hand, the determination of the status of Covid-19 as a national disaster has harmed the national economy. This is evidenced by a significant decline in

¹ Susilo, A., Rumende, S. *et.al.* (2020). Coronavirus Disease 2019: Tinjauan Literatur Terkini Coronavirus Disease 2019: Review of Current Literatures. *Jurnal Penyakit Dalam Indonesia*,6(1), p 45

² World Health Organization. (2020). Cororna Virus Disease Pandemic. Retrived From accessed on 5 September 2020. https://www.who.int/emergencies/diseases/novel-coronavirus-2019?Gclid=Cj0KCQjwo6D4BRDgARIsAA6uN18RR3tyvDGd3SuTplqMmzqIS2sQQXhM14ICKS9GLOh9qDgHF0Q7Tx0aAjVKEALw_wcB. Accessed on September 5 2020.

³ Juaningsih. (2020). Analisis Kebijakan PHK Bagi Para Pekerja Pada Masa Pandemi Covid-19 Indonesia. *Adalah Buletin Hukum & Keadilan*.4(1), p 190.

⁴ Article 7 paragraph (2) of The Act Number 24 of 2007 concerning Disaster Management.

⁵ Media Informasi Resmi Terkini Penyakit Infeksi Emerging. (April, 13 2020). 'Situasi Terkini Perkembangan Covid-19. Retrieved from <<https://covid19.kemkes.go.id/situasi-infeksi-emerging/info-corona-virus/situasi-terkini-perkembangan-coronavirus-disease-covid-19-13-april-2020/#.XxD2TecaTIU>>, Accessed on September 5 2020.

⁶ Ibid.

global economic growth. Based on data released by the OJK in April 2020, there was a decline in Indonesia's economic growth from 4.97% down to 2.97%, which is the decline in the contraction zone and below market expectations.⁷ The decline in economic growth was inseparable from business actors' negative impact, both as suppliers, service providers, service providers, distributors, and consumers who experienced an unfavorable situation during the pandemic.⁸ On the debtor side, the decline in turnover due to reduced demand will have an impact on the ability to pay credit by debtors. It can even result in default.⁹ This is supported by data from the Indonesian Securities Rating Agency, which stated an increase of 4.3% in high risk and very high-risk debtors in the period of December 2019 to May 2020 due to the Covid-19 pandemic.¹⁰

The impact of the determination of the Covid-19 national disaster then caused legal problems because several parties used Presidential Decree Number 12 of 2020 to postpone or not carry out their contractual obligations with force majeure arguments on all types of contracts.¹¹ In fact, during the Covid-19 pandemic, the implementation of achievements on private type contracts was still possible.¹² Not only that, but it is also possible for the parties to renegotiate the contents of a private contract based on the provisions of article 1339 *Burgerlijk Wetboek* (BW). Therefore, the public stigma related to Presidential Decree Number 12 of 2020, which can be used as an excuse for force majeure on all types of contracts, is inappropriate. In general, Force Majeure is a condition in which

⁷ OJK "Temu Virtual Kebijakan Stimulus Lanjutan Industri Jasa Keuangan", dalam Webinar Peran OJK dan BI Dalam Menjaga Stabilitas Perekonomian Indonesia di Tengah Pandemi Covid-19, On September 5 2020.

⁸ Putra PM Siregar and Ajeng Hanifa Zahra. (April, 15 2020). 'Bencana Nasional Penyebaran Covid19 Sebagai Alasan Force Majeure, Apakah Bisa?'. Retrieved from <https://www.djkn.kemenkeu.go.id/artikel/baca/13037/Bencana-Nasional-Penyebaran-COVID-19-sebagai-Alasan-Force-Majeure-Apakah-Bisa.html>, Accessed on September 5 2020.

⁹ Ibid

¹⁰ CNN Indonesia. (September, 5 2020). *Jumlah Debitur Berisiko Gagal Bayar Kredit Naik di Era Corona*. Retrieved from https://www.cnnindonesia.com/ekonomi/20200804163222-78-532094/number_of_debtors-at-risk-default-credit-increase-in-the-corona-era, Accessed on 5 September 2020.

¹¹ Akhmad Budi Cahyono. (April, 22 2020). *Keppres 12/2020 Sebagai Dalil Force Majeure, Benarkah?* <https://www.hukumonline.com/berita/baca/lt5e9fe7fd1e34d/keppres-12-2020-as-dalil-iforce-majeure-i-really-by-akhmad-budi-cahyono/>, accessed on 5 September 2020

¹² Perkembangan, Problematika dan Implikasi Force Majeure Akibat Covid 19 Bagi Dunia Bisnis, dalam webinar pada tanggal 5 September 2020

the parties are prevented from fulfilling achievements¹³. In line with this. In general, the definition of Force Majeure is not stated explicitly in the Burgerlijk Wetboek (BW).¹⁴ However, in Article 1244-1245 BW the provisions regarding the cost of loss and interest resulting from Force Majeure are described as follows¹⁵:

Article 1244 BW:

If there is a reason for that, the debtor must be punished with compensation for expenses, losses, and interest if he cannot prove that the agreement was not carried out or not at the right time due to an unforeseen event that cannot be held accountable to him. that is, if bad faith is not on his side.

Article 1245 BW:

It is not the cost of loss and interest. It must be replaced if due to coercive circumstances or due to an accidental incident, the debtor is unable to provide or do something that is required, or because the same things have committed an illegal act.

With the existence of economic problems and legal problems as described above, the government is trying to overcome these problems by establishing a stimulus policy in the form of Financial Services Authority Regulation Number 11/POJK.03/2020 concerning the National Economic Stimulus as a Countercyclical Policy on the Impact of the Spread of Corona Virus Disease 2019 (POJK 11/2020).¹⁶ Issuance of POJK No. 11/2020 helps reduce the problem of debtor default risk. This is shown by the existence of 5.33 million debtors and 4.55 million debtors for Micro, Small, and Medium Enterprises (MSMEs) who have received credit restructuring or financing totaling 717.85 trillion rupiahs as an effort to improve credit activities for debtors who have the potential to experience difficulties in fulfilling their obligations.

Based on the description above, the determination of the Non-Natural Disaster of the Spread of Covid-19 as a national disaster which is used as a force majeure argument

¹³ Dietrich Maskow. (1992). Hardship and Force Majeure. *The American Journal of Comparative Law*. 40 (3). p 663.

¹⁴ Agus Yudha Hernoko. (2014). *Hukum Perjanjian, Asas Proporsionalitas dalam Kontrak Komersial*, Edisi I. Jakarta : Kencana Pramedia Group. p 272.

¹⁵ Agri Chairunisa Isradjuningtias. (2015). *Force Majeure (Overmacht) dalam Hukum Kontrak (Perjanjian) Indonesia*. *Jurnal Ilmiah Fakultas Hukum UNPAR-Veritas et Justitita*. 1 (1) p 147.

¹⁶ OJK.(March, 20 2020). *OJK Mulai Terapkan Ketentuan Stimulus Perekonomian*. Retrived From <https://www.ojk.go.id/id/berita-dan-kegiatan/siaran-pers/Pages/Siaran-Pers-OJK-Mulai-Terapkan-Ketentuan-Stimulus-Perekonomian.aspx>. Accessed on September 5 2020.

for all types of contracts has the potential to cause legal problems, so this research will analyze whether a non-natural national disaster can qualify as a force majeure on the contract. Private sector and the legal consequences of force majeure on the implementation of contractual obligations.¹⁷

2. Research Methods

The research method used is Legal Research (Legal Research). There is no need to use normative research because the term legal research or Dutch recht onderzoek is always normative¹⁸. The approach to the problem used in this article's writing is the statute approach, the conceptual approach, and the case approach method. (case approach). The legal materials used are primary legal materials including statutory regulations which are related to national disasters as well as the concept of force majeure, including The Act Number 24 of 2007, The Act Number 4 of 1984 concerning Outbreaks of Infectious Diseases *Burgerlijk Wetboek* (BW), Presidential Decree Number 12 of 2020 and *POJK* Number 11 of 2020. Secondary legal materials include legal theories from experts in the form of books, legal dictionaries, legal journals, and comments on court decisions relating to national disasters and the concept of force majeure. The writing flow begins with identifying legal issues, determining the framework of thinking, determining ideas, and gathering relevant literature on the topic at hand. Appointed and collect legal material. Then from the legal material that has been collected, it is reviewed and analyzed to be further filtered into an article. From these materials, a conclusion can be drawn. Collect relevant library materials by the topics raised and collect legal materials. Then from the legal material that has been collected, it is reviewed and analyzed to be further filtered into an article. From these materials, a conclusion can be drawn. Collect relevant library materials under the topics raised and collect legal materials. Then from the legal material that has been collected, it is reviewed and analyzed to be further filtered into an article. From these materials, a conclusion can be drawn.

¹⁷ OJK. (June, 20 2020). 'OJK Terbitkan Kebijakan Stimulus Lanjutan untuk Mendukung Pemulihan Ekonomi Nasional'. Retrived from <<https://www.ojk.go.id/id/berita-dan-kegiatan/info-terkini/Pages/OJK-Terbitkan-Kebijakan-Stimulus-Lanjutan-untuk-Mendukung-Pemulihan-Ekonomi-Nasional.aspx>>. Accessed on September 5 2020.

¹⁸ Peter Mahmud Marzuki. (2017). *Penelitian Hukum*, Edisi Revisi, Cetakan ke-13. Jakarta : Kencana. p 55.

3. Result and Discussion

3.1 National Disaster Status Determination Cannot Qualify as Force Majeure for All Types of Contracts

The Non-Natural Covid-19 disaster determination as a National Disaster has harmed a massive community's life and livelihood elements. For example, in the field of Civil Law, one of the most felt impacts is the disruption in the implementation or fulfillment of contracts by the contracting parties.¹⁹ The disruption in contract implementation can be seen from the increase several postponement cases of debt payment obligations (PKPU). There are 233 cases, and several bankruptcy cases. As many as 43 cases in the first semester of 2020.²⁰ Implementation of contracts Being disturbed is often used as an excuse by some parties for not carrying out their achievements with the Force Majeure argument. This is based on the reason that the National Disaster is an unexpected event and the emergence of this event cannot be accounted for by the parties.

Basically, Force Majeure can indeed be caused by the emergence of unexpected events or circumstances that the parties cannot account for so that it hinders the implementation of the parties' contractual obligations.²¹ However, in order to truly qualify the Covid-19 National Disaster as Force Majeure, this party must first prove reasonable facts that the Covid-19 National Disaster did directly interfere with the achievement of his achievements.

Although the Covid-19 Pandemic has had a bad impact on the national economy, in some indicators, it is also estimated to be greater than the Monetary crisis that hit Indonesia in 1998²². But this cannot be used as a justification for not carrying

¹⁹ Hamalatul Quraini and Norman Edwin Elnizar. (May, 18 2020). Masalah Hukum Penundaan Kontrak Akibat Penyebaran Covid-19. Retrived From <https://www.hukumonline.com/berita/baca/lt5e70df2e855cf/masalah-hukum-penundaan-kontrak-akibat-penyebaran-covid-19/>>. Accessed on September 5 2020

²⁰ Ferry Sandi. (July, 20 2020). "Kasus Pailit Perusahaan Makin Marak Saat Corona, Tanda Apa?", Retrived from <https://www.cnbcindonesia.com/news/20200709202850-4-171599/kasus-pailit-perusahaan-makin-marak-saat-corona-tanda-apa> . Accessed on September 5 2020.

²¹ Agri Chairunisa Isradjuningtias, Op.cit., p 145

²² Suhartini .(1985). *Masalah Ganti Rugi Karena Force Majeure dalam Jual beli Barang-Barang yang harus ditimbang Beratnya*. Skripsi pada Program Sarjana Hukum Fakultas Hukum Universitas Airlangga, Surabaya. p 26

out contractual obligations under the Force Majeure argument²³. Because the economic situation during the Covid-19 national disaster was not much different when compared to the 1998 Monetary Crisis.²⁴ During the 1998 Monetary Crisis, court jurisprudence generally did not grant the debtor's defense arguing that the monetary crisis could be classified as Force Majeure.²⁵ One of them is the Supreme Court Decision Case No. 3087 K/Pdt/2001 regarding the Sale and Purchase Agreement between a resident of North Jakarta (the Plaintiff) and a Apartment Development Company (Defendant)²⁶. At that time, the Apartment Development Company argued that the implementation of the agreement in the form of handing over apartment units that had been purchased by the plaintiff became difficult to implement due to the emergence of a monetary crisis that caused prices soaring high up.²⁷ As for the reasons, the apartment development company stated that the event of the monetary crisis at that time was a Force Majeure. However, in his decision, the Supreme Court Judge rejected the defendant's argument that the monetary crisis was a Force Majeure and ordered the defendant to return the apartment payment and compensation money to the plaintiff.²⁸ This is because the implementation of the agreement by Defendant could still be carried out even in difficult circumstances. This means that a national disaster cannot automatically qualify as Force Majeure in all types of contracts because in a private contract, there are 3 (three) possibilities of contractual achievement, as follow as:

1. Implementation of achievements can still be carried out;

The Covid-19 pandemic state has not resulted in all business sectors to stop operating and be directly affected, so it is still very possible to fulfill the

²³ Richard Kennedy.(2020). Legal Discourse on Manpower During COVID-19 Outbreak. *Jurnal Law Reform*.16(1). P 71.

²⁴ Hamalatul Qur'ani. (April, 20 2020). "Ingin Gunakan Dalil Force Majeure, Pahami Dulu Persyaratannya". Retrived from <https://www.hukumonline.com/berita/baca/lt5ea0fc11c17fa/ingin-> . Accessed on September 5 2020.

²⁵ Ibid.

²⁶ Anandisa Syakbandiah. (2015). *Tinjauan Hukum Terhadap Wanprestasi Akibat Keadaan Memaksa (Overmacht/Force MAjeure) (Studi Putusan No.3087 K/Pdt/2001 Mahkamah Agung)*. Skripsi pada Program Sarjana Hukum Fakultas Hukum Universitas Gorontalo.p 10.

²⁷ Ibid

²⁸ Ibid, p 11.

contractual obligations of private contracts in full²⁹. For example, in private contracts related to domestic online buying and selling that can still be done, even based on data compiled by the Central Statistics Agency (BPS) in March 2020, online sales jumped 320%, and April recorded an increase of 480% from total online sales in January 2020.³⁰

2. Implementation of achievements can be carried out even in difficult circumstances;

In addition to the performance that can still be fully implemented, contractual implementation can still be carried out even though the fulfillment of the achievement is delayed (relative or temporary force majeure). In this case, the debtor can still fulfill his performance even though the amount of sacrifice made is unbalanced or creates a big danger of loss for the debtor³¹. This in the Anglo-American system is called hardship.³²

The definition of hardship is regulated in article 6.2.2 UNIDROIT (International Institute for the Unification of Private Law), Principle of International Commercial Contracts, Rome 1994 (hereinafter referred to as UPICC), which is caused by the very high cost of contract execution which burdens the contracting party (the debtor) or The contract performance value is greatly reduced for the receiving party (the creditor), as well as the following events³³ :

- a. The incident occurred or became known to the aggrieved party after the closure of contact;
- b. The aggrieved party cannot reasonably predict events after the contract;
- c. The incident occurred outside the control of the injured party;
- d. The aggrieved party did not predict the risk from that event.

²⁹ Jamal Wiwoho and Dona Budi Kharisma. (May, 29 2020). *Pandemi Covid-19 dan Implikasinya Bagi Kontrak Bisnis*. Retrived From <https://republika.co.id/berita/qb2isf291/pandemi-covid19-dan-implikasinya-bagi-kontrak-bisnis>. Accessed September 9 2020.

³⁰ Kontan.co.id. (June, 2 2020). '*BPS Catat Penjualan Online Melonjak Tajam Selama Pandemi Corona*'. Retrieved From <https://nasional.kontan.co.id/news/bps-catat-penjualan-online-melonjak-tajam-selama-pandemi-corona>. Accessed September 5 2020.

³¹ Rahmat S.S. Soemadipradja, *Op.cit.*, p 9.

³² Ibid

³³ Agus Yudha Hernoko. (2006). '*Force Majeure Clause*' atau '*Hardship Clause*' Problematika Dalam Perancangan Kontrak. *Perspektif*. 11(3). p 215

There are 3 elements to determine the presence or absence of hardship, as follows³⁴ :

- a. Fundamental changes in the balance of contracts;
- b. Increased contract execution costs;
- c. Decreased value of the implementation of contract received by a party.

An example of the implementation of private contract achievements that can be carried out even in difficult circumstances is related to the export of leather bags, due to the Covid-19 pandemic causing an export ban so that achievement is hindered and the parties renegotiate the contents of the contract which in essence when the export permit is revoked, then the obligation from the recovered seller to hand over the exported goods, followed by new provisions to adjust the policy for handling the spread of Covid-19 in terms of exports.

3. Implementation of achievements cannot be implemented.

In this situation, the implementation of achievements completely obstructed because it becomes impossible to even though in difficult circumstances the Covid-National Disaster.³⁵ In civil law, such a situation is known as absolute force majeure³⁶ . Mariam Darus Badruzaman explained that absolute force majeure occurs when obligations cannot be completely fulfilled. In this case, anyone or everyone cannot carry out the fulfillment of achievements³⁷. Examples of debtor conditions that were completely prevented from fulfilling their contractual obligations during Covid-19 include:³⁸

- a) Debtors affected by the closure of transportation and tourism routes to and from China or other countries that have been affected by Covid-19 and travel warnings from several countries.

³⁴ Ibid

³⁵ Hukum Online. (March, 20 2020). 'Wabah Corona Sebagai Alasan Force Majeure dalam Perjanjian'. Retrived From <https://www.hukumonline.com/klinik/detail/ulasan/lt5e81ae9a6fc45/wabah-corona-sebagai-alasan-iforce-majeur-i-dalam-perjanjian/> , Accessed on September 5 2020.

³⁶ Mariam Darus Badruzaman. (1996). *KUH Perdata Buku III: Hukum Perikatan dengan Penjelasan*. Bandung: Alumni.p 37

³⁷ Ibid

³⁸ Explanation of Article 2 paragraph (1) POJK No 11/POJK.03/2020

- b) Debtors were affected by a significant decrease in the volume of export and import due to supply chain linkages and trade with China or other countries affected by Covid-19.
- c) Debtors who are affected by the obstruction of infrastructure development projects due to the interruption of the supply of raw materials, labor, and machinery from China or other countries that have been affected by Covid-19.

On the other hand, the use of the force majeure argument due to the Covid-19 national disaster is more appropriately applied to public contracts³⁹. This is because in the provisions of public contracts have elements of public services⁴⁰. In the case of public service delivery, the state is obliged to allocate an adequate budget through the Revenue Budget and State Expenditures or Regional Revenue and Expenditure Budget (APBN/APBD).⁴¹ Therefore it is very justified when the Government uses the Force Majeure argument when it is obstructed from fulfilling public contracts, given that the APBN/APBD funds during the National Disasters are currently prioritized for handling Covid -19.⁴²

From this explanation, it can be analyzed that the existence of the Covid-19 National Disaster Determination in The Presidential Decree Number 12 of 2020 does not necessarily qualify as Force Majeure for all types of contracts. The reason is, in postulating a Force Majeure during a National Disaster, one must first state the following reasons:

- a. the performance of the contractual obligations cannot be carried out even in difficult circumstances.
- b. It can prove reasonable facts that the Covid-19 national disaster really hindered the implementation of the contract.
- c. The termination of contract execution did not disrupt the Indonesian economy.

³⁹ Mariam Darus Badruzaman. (1994). *Aneka Hukum Bisnis*. Bandung : PT Alumni. p 66

⁴⁰ Ibid, p 68

⁴¹ Article 33 paragraf (1) The Act Number 25 of 2009 Concerning Public Service.

⁴² Pipit Ika Ramadhani. (March, 18 2020). 'Pemerintah Utamakan Belanja Anggaran Buat Penanganan Corona Covid-19'. Retrived From <https://www.liputan6.com/bisnis/read/4205601/pemerintah-utamakan-belanja-anggaran-buat-penanganan-corona-covid-19>>. Accessed on September 5 2020.

3.2 Legal Consequences for the Determination of National Disaster Status in Presidential Decree 12/2020 on Contractual Implementation Affects the Resilience of the National Economy

As described in the previous section, there are at least 3 (three) legal consequences resulting from the Covid-19 National Disaster on contractual implementation by the parties, which include:

1. Debtor hindered in a manner to fulfil obligation contractual.

According to Edy Lisdiyono, in the event of absolute force majeure, the engagement will be canceled. The reason is that the obstacles that occur are permanent, so it really does not allow the achievement to be carried out. The recovery is carried out again to its original state, as if there had never been an engagement.⁴³ As for the legal consequences if the force majeure argument is truly proven in contractual implementation, especially in the current pandemic situation, creditors cannot demand fulfillment of achievements, debtors cannot be declared negligent, debtors are not obliged to pay compensation, the risk does not transfer to debtors, creditors does not demand cancellation in a reciprocal agreement, the implementation of the contract does not necessarily end, and the agreement can be renegotiated based on the agreement of both parties⁴⁴.

2. The debtor finds it difficult to carry out his contractual obligations so that it is possible to renegotiate the contents of the contract based on the parties' agreement.

Hardship cannot be used as a reason for the contract's cancellation unless the change is fundamental.⁴⁵ In the event of *Hardship*, the alternative solutions are as follows⁴⁶:

⁴³ Hukum Online. (April, 25 2020). *Akibat Force Majeure Dalam Pandangan Pakar Hukum Perdata*. Retrieved From '<https://www.hukumonline.com/berita/baca/lt5ea3ac716afa1/akibat-hukum-iforce-majeur-i-dalam-pandangan-pakar-hukum-perdata/>'. Accessed on September 5 2020

⁴⁴ Hamalatul Qur'ani. (April, 25 2020). *Akibat Hukum Force Majeure dalam Pandangan Pakar Hukum Perdata*. Retrived From <<https://www.hukumonline.com/berita/baca/lt5ea3ac716afa1/akibat-hukum-iforce-majeur-i-dalam-pandangan-pakar-hukum-perdata/>>. Accessed on September 5 2020.

⁴⁵ Ibid

⁴⁶ Agus Yudha Hernoko. *Hukum Perjanjian, Asas Proporsionalitas dalam Kontrak Komersial Loc.cit*, p 272.

- a) The aggrieved party has the right to request contract renegotiation to other parties. The request must be submitted immediately, indicating the (legal) basis for the request for renegotiation.
 - b) A request for renegotiation automatically entitles the aggrieved party to stop executing the contract.
 - c) If negotiations fail to reach an agreement within a reasonable timeframe, the parties can take it to court.
 - d) If the court proves the existence of hardship, the court may decide to:
 - i. Terminate the contract at a fixed date and time; or
 - ii. Change the contract by restoring the balance.
3. The debtor's condition cannot qualify as force majeure so that the debtor is obliged to fulfill the achievement.

In essence, under these conditions, it is still possible to implement contractual obligations even in the midst of the Covid-19 Pandemic. The reason is that the impact or consequences of the birth of the Covid-19 Pandemic did not directly impact the implementation of contractual obligations by the parties and can still be carried out. This means that the birth of a contract between the two parties still has binding power and at the same time applies as law between the two parties as formulated in the provisions of article 1338 BW⁴⁷. Where if either party does not carry out the contractual obligation's implementation, then the party is deemed to have committed denying the achievements he did or known as default.⁴⁸ So that achievement can be demanded, compensation is demanded (compensation, fees, Furthermore, in industrial society or society in the sector.

In informal terms, usually in the capital provision, they often enter into loan agreements either through banking or non-bank institutions.⁴⁹ Where this condition is an example of contract implementation, which is still very possible to be carried out amid the Covid-19 Pandemic. On the other hand, on March

⁴⁷ Aminah. (2020). "Pengaruh Pandemi Covid 19 Pada Pelaksanaan Perjanjian", *Diponegoro Private Law Review*. 7 (1) .p 653.

⁴⁸ *Ibid.*,p 654.

⁴⁹ *Ibid*

13, 2020, the Government through OJK issued POJK 11/2020 to help maintain the stability of the country's economy and public welfare and optimize the banking intermediation function, maintain financial system stability, and support economic growth.⁵⁰ Thus, even though the industrial community or even the informal sector is still obliged to carry out its contractual obligations amid the Covid-19 pandemic.

POJK 11/2020 can be used as an economic stimulus by debtors when they meet several requirements, well known as debtors (including MSME debtors) who are having difficulty fulfilling their obligations to the Bank because the debtor or debtor's business is affected by The spread of COVID-19, either directly or indirectly, in the economic sector, including tourism, transportation, hotels, trade, processing, agriculture, and mining.⁵¹

For the limitation of areas for which restructuring can be proposed is not limited to the economic sector such as tourism, transportation, hospitality, trade, processing, agriculture, and mining⁵², but special treatment in POJK can be applied by the Bank to these debtors, as long as the Bank has guidelines that explain the criteria for debtors by classification. Affected by COVID-19 and the sectors affected.

The existence of the POJK opens opportunities for credit or financing restructuring in which debtors affected by Covid-19 apply for credit restructuring first to banks and financing companies. Then the bank and the finance company will assess whether the debtor's proposed restructuring meets the requirements or not. The restructuring aims to relieve creditors by

⁵⁰ Ibid

⁵¹ POJK.03/ 2020 concerning Frequently Asked Questions Financial Services Authority Regulation Number 11 / PJOK.03/ 2020 about Stimulus Economy National as Policy Countercyclical Impact Spread Coronavirus Disease 2019. Retrived From <https://www.ojk.go.id/id/regulasi/Documents/Pages/Stimulus-Perekonomian-Nasional-Sebagai-Kebijakan-Countercyclical-Dampak-Penyebaran-Coronavirus-Disease-2019/Frequently%20Asked%20Question%20POJK%2011%20-%202020.pdf>>, Accessed on September 2020

⁵² Ibid

adjusting principal installments, lowering interest rates, and extending time.⁵³ However, debtors who do not meet the restructuring requirements are still required to perform their achievements. If an agreement expressly excludes a virus or pandemic outbreak or government action against contractual implementation, then neither party can claim a force majeure event due to the Covid-19⁵⁴. Consequently, the parties must continue to carry out their respective obligations under the relevant agreements

4. Conclusion

The determination of the Covid-19 National Disaster in Presidential Decree 12 of 2020 cannot actually qualify as Force Majeure for all types of contracts. The reason is that several provisions must be considered in postulating a Force Majeure. In private contracts, the implementation of achievements in the midst of the national Covid-19 disaster is still very possible even in complicated circumstances. The obstruction of the implementation of private contracts during the Covid-19 pandemic would disturb the balance of Indonesia's business world. This is because business relations in Indonesia start from the birth of a contract. As a result, this will certainly impact the Indonesian economy during the current Covid-19 pandemic. That is, in postulating Force Majeure, The path of accomplishing his own achievements and implementing these achievements still cannot be done under difficult circumstances.

In addition, the determination of the Covid-19 national disaster in Presidential Decree 12 of 2020 also has legal consequences for the implementation of contractual obligations. First, the implementation of the contractual obligations is completely obstructed so that it is impossible to fulfill the achievement. Second, the implementation of contractual obligations is

⁵³ Smartlegal.id. (April 22, 2020). *Mekanisme Restrukturisasi Kredit bagi Debitur di Tengah Pandemi*. Retrieved From <<https://smartlegal.id/galeri-hukum/pandemi-covid-19/2020/04/22/mekanisme-restrukturisasi-kredit-bagi-debitur-di-tengah-pandemi-covid-19/>>. Accessed on September 5 2020

⁵⁴ Adriansyah, S.H. (April, 24 2020). *Pembatalan Kontrak Karena Pandemi Covid-19, Force Majeure ?*. Retrieved From <<https://www.propertynbank.com/pembatalan-kontrak-karena-pandemi-covid-19-force-majeure/>>. Accessed on September 5 2020.

difficult to do so there is an opportunity to renegotiate the contract's contents. Third, it is possible to carry out contractual obligations, even in difficult circumstances. Because the implementation of contractual obligations has proven to impact the resilience of the national economy, the Government is here to implement various policies to maintain national economic stability, one of which is POJK 11/2020.

5. Acknowledgments

We would like to thank the Faculty of Law, Universitas Airlangga for supporting us, Dr. Ghansham Anand, SH, M.Kn. who have been willing to be our supervisors, supportive families

6. References

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