

IMPLIKASI YURIDIS PENUNDAAN IMPLEMENTASI PAJAK KARBON PADA SEKTOR ENERGI DALAM MENCAPAI *NATIONALLY DETERMINED CONTRIBUTION* (NDC) INDONESIA

INTISARI

Retno Meilani¹, Dahliana Hasan²

Pasal 13 Undang-Undang Nomor 7 Tahun 2021 tentang Harmonisasi Peraturan Perpajakan menempatkan pajak karbon sebagai instrumen fiskal pendukung pencapaian *Nationally Determined Contribution* (NDC), dengan batas waktu pemberlakuan paling lambat 1 April 2022 pada sektor pembangkit listrik tenaga uap batu bara. Sampai penelitian ini disusun, ketentuan tersebut belum dioperasikan. Penelitian ini menganalisis implikasi yuridis penundaan tersebut terhadap pencapaian NDC serta menguji urgensi reformulasi pengaturan pajak karbon. Penelitian bersifat yuridis-normatif dengan pendekatan kebijakan dan perbandingan hukum, menggunakan bahan hukum primer, sekunder, dan tersier, diperkuat wawancara dengan Ketua Komisi XI DPR RI, serta dianalisis melalui teori *Pigouvian tax*, kerangka tiga dimensi Heine, dan teori efektivitas hukum Soerjono Soekanto. Hasil penelitian menunjukkan bahwa penundaan menimbulkan implikasi yuridis berlapis: pelanggaran asas *lex superior derogat legi inferiori*, tindakan *ultra vires* eksekutif, terganggunya pemenuhan kewajiban prosedural *Enhanced Transparency Framework*, serta potensi kegagalan memenuhi standar *due diligence* sebagaimana ditegaskan Mahkamah Internasional dalam *Advisory Opinion* mengenai kewajiban negara dalam konteks perubahan iklim. Penelitian ini juga menemukan bahwa persoalan tidak berhenti pada tataran implementasi, melainkan bersumber dari tiga kelemahan struktural dalam desain norma, yakni delegasi berlapis tanpa batas waktu dan mekanisme pemaksa, inkonsistensi antara rezim hukum fiskal dan rezim hukum lingkungan, serta absennya *earmarking* mandatoris. Perbandingan dengan *Carbon Pricing Act 2018* Singapura menunjukkan bahwa kesenjangan tersebut bukan semata konsekuensi perbedaan kapasitas ekonomi, melainkan perbedaan komitmen desain kelembagaan. Reformulasi Pasal 13 karenanya bersifat mendesak dan harus mencakup lima elemen yang dirancang secara simultan.

Kata kunci: Pajak karbon, *Pigouvian Tax*, *Nationally Determined Contribution*, Nilai Ekonomi Karbon, Efektivitas Hukum

¹ Mahasiswa Magister Hukum Bisnis dan Kenegaraan, Universitas Gadjah Mada

² Dosen Fakultas Hukum, Universitas Gadjah Mada

***LEGAL IMPLICATIONS OF THE POSTPONED IMPLEMENTATION OF THE
CARBON TAX IN THE ENERGY SECTOR FOR ACHIEVING INDONESIA
NATIONALLY DETERMINED CONTRIBUTION (NDC)***

ABSTRACT

Retno Meilani, Dahliana Hasan

*Article 13 of Law Number 7 of 2021 on the Harmonisation of Tax Regulations establishes a carbon tax as a fiscal instrument supporting the achievement of Indonesia's Nationally Determined Contribution (NDC), with a statutory commencement date of no later than 1 April 2022 for coal-fired power plants. At the time of writing, the provision has not been brought into operation. This study analyses the juridical implications of that delay for the achievement of the NDC and examines the urgency of reformulating carbon tax regulation. Employing a normative legal method with policy and comparative approaches, it draws on primary, secondary, and tertiary legal materials, supplemented by an interview with the Chair of Commission XI of the House of Representatives, and analyses them through Pigouvian tax theory, Heine's three-dimensional framework, and Soerjono Soekanto's theory of legal effectiveness. The study finds that the delay produces layered juridical implications: a breach of the principle *lex superior derogat legi inferiori*, *ultra vires* executive conduct, disruption of procedural obligations under the Enhanced Transparency Framework, and a potential failure to meet the stringent due diligence standard affirmed by the International Court of Justice in its Advisory Opinion on the obligations of States in respect of climate change. The problem, however, is not confined to implementation. It originates in three structural defects in the design of the norm: layered delegation without binding deadlines or enforcement mechanisms, inconsistency between the fiscal and environmental legal regimes, and the absence of mandatory earmarking. A comparison with Singapore's Carbon Pricing Act 2018 demonstrates that the resulting gap reflects a difference in institutional design commitment rather than economic capacity alone. Reformulation of Article 13 is therefore urgent and must comprise five elements designed simultaneously.*

Keywords: Carbon tax, Pigouvian tax, Nationally Determined Contribution, Carbon Economic Value, Legal effectiveness