

INTISARI

PELAKSANAAN PUTUSAN HAKIM MENGENAI PEMBAYARAN GANTI RUGI DAN/ATAU BIAYA PEMULIHAN LINGKUNGAN HIDUP ATAS TERKABULNYA GUGATAN KEMENTERIAN LINGKUNGAN HIDUP DAN KEHUTANAN

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Penelitian ini bertujuan untuk mengetahui dan menemukan kendala yuridis dalam pelaksanaan putusan hakim mengenai pembayaran ganti rugi dan/atau biaya pemulihan lingkungan hidup atas terkabulnya gugatan Kementerian Lingkungan Hidup dan Kehutanan (KLHK) dalam sengketa pencemaran dan/atau kerusakan lingkungan hidup. Setelah diketahui dan ditemukan kendala yuridis, tujuan penelitian selanjutnya yaitu menemukan dan menganalisis upaya yang seharusnya dilakukan oleh KLHK agar putusan hakim tersebut dapat segera dilaksanakan berdasarkan kendala yuridis yang telah teridentifikasi.

Penelitian ini merupakan penelitian hukum empiris. Data primer penelitian berupa hasil wawancara secara lisan dan tertulis, dengan narasumber dan responden dari Direktorat Jenderal Penegakan Hukum Lingkungan Hidup dan Kehutanan KLHK, Pengadilan Negeri Jakarta Utara, Pengadilan Negeri Meulaboh, dan *Indonesian Center for Environmental Law (ICEL)*. Data sekunder penelitian berupa peraturan perundang-undangan, putusan hakim, buku, hasil penelitian, artikel di internet, kamus hukum, Kamus Besar Bahasa Indonesia dan Kamus Bahasa Inggris.

Hasil penelitian menunjukkan bahwa terdapat kendala yuridis dalam pelaksanaan putusan hakim mengenai pembayaran ganti rugi dan/atau biaya pemulihan lingkungan hidup atas terkabulnya gugatan KLHK. Kendala yuridis ditemukan berdasarkan Teori Sistem Hukum (*Legal System*) oleh Lawrence M. Friedman, yang meliputi struktur hukum, substansi hukum, dan budaya hukum. Adapun kendala yuridis dalam pelaksanaan putusan hakim mengenai pembayaran ganti rugi dan/atau biaya pemulihan lingkungan hidup atas terkabulnya gugatan KLHK dalam sengketa pencemaran dan/atau kerusakan lingkungan hidup yaitu aparat pengadilan negeri yang dalam menjalankan perintah eksekusi lambat dan tidak sesuai ketentuan, belum adanya peraturan yang mengatur secara khusus mengenai penagihan uang ganti rugi dan/atau biaya pemulihan lingkungan hidup dan peraturan yang mengatur secara khusus mengenai teknis pemulihan lingkungan hidup, amar putusan hakim dengan nilai ganti rugi dan/atau biaya pemulihan yang sangat besar, dan tergugat yang kalah dalam perkara tidak beritikad baik untuk segera menjalankan putusan hakim yang telah berkekuatan hukum tetap. Upaya yang seharusnya dilakukan oleh KLHK agar putusan hakim mengenai pembayaran ganti rugi dan/atau biaya pemulihan lingkungan hidup dapat segera dilaksanakan yaitu KLHK seharusnya melaporkan kepada Ombudsman mengenai pengadilan negeri yang berwenang dalam menjalankan perintah eksekusi bertindak lambat dan tidak sesuai ketentuan. Selain itu, KLHK seharusnya segera mengajukan sita eksekusi atas aset tergugat yang telah diketahui dari hasil penelusuran aset.

Kata-kata kunci: putusan, eksekusi, ganti rugi, pemulihan lingkungan hidup, gugatan, Kementerian Lingkungan Hidup dan Kehutanan.

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ABSTRACT

THE IMPLEMENTATION OF JUDGE'S DECISIONS REGARDING PAYMENTS FOR COMPENSATION AND/OR ENVIRONMENT RESTORATION COST FOR THE ACCEPTED LAWSUIT OF THE MINISTRY OF ENVIRONMENT AND FORESTRY

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This study aims to determine and find juridical constraints in the implementation of judge's decisions regarding the payment of compensation and/or the cost for environmental restoration for the accepted lawsuit of the Ministry of Environment and Forestry (MoEF) in disputes over pollution and/or environmental damage. The next purpose of this study is to find and analyze the efforts that should be made so that the judge's decision can be immediately executed based on identified juridical constraints.

This research is empirical legal research using primary data from the results of oral and written interviews and secondary data in the form of policies and literature. Resource persons and respondents for this study are from the Directorate General of Environmental and Forestry Law Enforcement MoEF, North Jakarta District Court (DC), Meulaboh DC, and Indonesian Center for Environmental Law (ICEL). Secondary data of this study obtained from laws and regulations, judge's decisions, books, research results, articles on the internet, law dictionaries, Indonesian dictionary and English dictionary.

This study found that there are juridical constraints in the implementation of the judge's decisions regarding the payment of compensation and/or the cost for environmental restoration for the accepted lawsuit of MoEF. Juridical constraints are found based on Legal System Theory by Lawrence M. Friedman, which includes legal structure, legal substance, and legal culture. The juridical constraints in the implementation of judge's decisions regarding the payment of compensation and/or the cost for environmental restoration for the accepted lawsuit of MoEF in disputes over pollution and/or environmental damage are the officials of district court who carry out the order of execution are slowly and not in accordance with the regulations, the absence of regulations specifically regulates the collection of compensation and/or environmental restoration costs and regulations specifically regulates the technical aspects of environmental restoration, ruling of the judge's decision with a very large amount of compensation and/or restoration costs, and the defendant who loses the case is not have a good intention to immediately implement the judge's decision which legally binding. The effort that should be made by MoEF so that the judge's decision regarding the payment of compensation and/or environmental restoration costs for the MoEF lawsuit can be implemented immediately, MoEF should report to the Ombudsman regarding the district court who has the authority to execute the execution orders are slowly and not in accordance with the regulations. In addition, MoEF should immediately apply for seizure of the defendant's assets that have been known from the asset trace results.

Key words : decision, executions, compensation, environmental restoration, lawsuit, Ministry of Environment and Forestry

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