RINGKASAN

Penegakan hukum lingkungan dalam kasus dana reboisasi dilakukan melalui pengujian oleh hakim Peradilan Tata Usaha Negara terhadap: *Pertama,* keabsahan Keputusan Presiden (KEPPRES) No. 42 tahun 1994, sebagai keputusan tata usaha negara (KTUN) yang berdampak penting terhadap kepentingan lingkungan. *Kedua,* "ius standi" lembaga swadaya masyarakat (LSM) lingkungan yang menurut Undang-undang No. 23 Tahun 1997 tentang Pengelolaan Lingkungan Hidup (UUPLH) disebut organisasi lingkungan.

Hasil penelitian mengungkapkan bahwa KEPPRES No. 42 tahun 1994 merupakan KTUN tidak terikat yang substansinya merugikan kepentingan lingkungan. KEPPRES No. 42 tahun 1994 secara prosedural tidak menyediakan peranserta masyarakat, termasuk bagi LSM lingkungan. Akibatnya, peraturan perundang-undangan *(hukum tertulis)* tidaklah memadai untuk dijadikan instrumen penguji keabsahan. Berdasarkan asas-asas umum pemerintahan yang baik *(hukum tidak tertulis)*, terungkap bahwa KEPPRES No. 42 tahun 1994 secara prosedural melanggar asas kecermatan dan secara substansi melanggar asas kepercayaan. Demikian pula, adanya: bentuk yayasan, tujuan dalam statuta yayasan, kegiatan yang sesuai tujuan, dan sifat representatif, merupakan kriteria "ius standi" bagi LSM lingkungan.

Putusan hakim yang menyatakan gugatan tidak dapat diterima dan pengakuan hakim terhadap empat dari enam LSM lingkungan sebagai penggugat, mengandung kelemahan yuridis yang disebabkan oleh: adanya rumusan Pasal 2 huruf a Undang-undang No. 5 tahun 1986 tentang Peradilan Tata Usaha Negara (UU PTUN) yang seharusnya tidak diperlukan, tidak memadainya hukum tertulis, dan tidak dilakukannya pengujian terhadap kriteria substansi bagi LSM lingkungan penggugat.

ABSTRACT

Environmental law enforcement in the case of the reforestation fund through administrative riview by the administrative court involve: *First,* the legality of Presidential Decree Number 42 of 1994 as a decision having a significant impact on the environment. *Second,* "ius standi" of environmental non government organisations (NGO's), which according to Act Number 23 of 1997 concerning Environmental Management are called environmental organisations.

This research concluded that Presidential Decree Number 42 of 1994 is a discretionary decision which its substance have inflicted environmental interest. Presidential Decree Number 42 of 1994 does not regulate public participation as a procedural rule, including for environmental NGO's. The result is that there is insufficient regulations *(written law)* to be used as instrument to judge the legality. Pursuant to the principles of proper administration *(unwritten law)* it is shown that President Decree Number 42 of 1994 procedurally violates the principle of accurateness and substantively violates the principle of reliance. Further, the requirements of the foundation, the goal, the activity based on purpose, and the representative character are criteria of "ius standi" of environmental NGO's.

The judge's decision dissenting the suit is not acceptable, and the judge's acknowledgment to four of the six environmental NGO's as litigants has legal weakness caused by: the existence of Article 2 letter a of Act Number 5 of 1986 concerning Administrative Court which actually not needed, insufficiency of written law, and there is no evaluation to the substantive criteria of the environmental NGO's as litigants.

Keywords : - *environmental interest*
- *principles of proper administration*
- *environmental NGO's or environmental organisation*