



Juridical Review of Investors' Legal Protection in the Development of New Renewable Energy

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Abstract

Energy is closely related to the economic development of all countries, useful for meeting consumption needs and activities in various sectors. This implication is the impact of the haste in drafting the Presidential Regulation and only focusing on the economic approach. What is the guarantee of legal protection for investors in the development of Renewable Energy in Indonesia? and second, how is the community involved in preparing legal protection for investors in the development of renewable energy? This legal research and writing uses normative juridical methods because the problems and implications contained in legal writing are dominated by differences in policies issued by the government. Indonesia doesn't yet have a Law on New and Renewable Energy specifically as a main legal source and optimization effort in terms of management and development that regulates new and renewable energy. The idea of energy democracy in developing New and Renewable Energy can be implemented through public participation by opening up transparency in New and Renewable Energy development policies.

Keywords: *Implications; Economic Approach; Legal Protection; Democracy of Energy*

Introduction

Energy is closely related to the economic development of all countries, useful for meeting consumption needs and activities in various sectors. Natural resources are still dominantly used for the greatest possible prosperity of society and their management must refer to the principles of sustainable development. Indonesia, seen from the supply aspect, is a country rich in energy resources, both non-renewable resources and renewable resources. Its development must be supported by community participation from various aspects ranging from aspirations, investment, culture and suggestions apart from the government.

The strategic and important function of energy is not only as a source of state revenue but can also function as a catalyst for economic growth and even as an important aspect that determines a country's national resilience. Until now, Indonesia still has many delays in terms of energy management transition. Dominated by the consumption of non-renewable energy such as petroleum or coal to meet daily needs, this is a serious challenge for management and policies related to national energy. (Yaqin, 2014). Indonesia's energy supply is currently dominated by fossil energy sources, which are not environmentally friendly and cannot be renewed. Investment in the development of New and Renewable Energy has not reached the target and is experiencing many problems and challenges.

Commitments related to investment in new and renewable energy in Indonesia in developing the use of new and renewable energy have been hampered, impacting the target of using 23% renewable energy at risk. The Indonesian government is preparing the ecosystem to accelerate the energy transition towards new and renewable energy in Indonesia to achieve zero carbon emissions by 2060. Indonesia has the prospect of developing New Renewable Energy according to the General Plan for Electric Power Generation (RUPTL) and energy market creation strategies. The presence of Presidential Regulation Number 112 of 2022 concerning the Acceleration of New Renewable Energy Development for the Supply of Electricity aims to be a step to accelerate the development of New Renewable Energy ahead of the G20 summit to attract investors, but in its implementation there are many irregularities and implications that arise. This implication is the impact of the haste in drafting the Presidential Regulation and only focusing on the economic approach. It should also be understood that Presidential Decree Number 112 of 2022 concerning the Acceleration of New Renewable Energy Development for the Supply of Electricity was also drafted in conjunction with the New Renewable Energy Draft Law which has not yet been ratified. The Presidential Decree and the New Renewable Energy Bill are basically similar in that they do not yet contain clear transition stages. Apart from that, not having a clear direction regarding the clean energy transition within a certain time period to achieve the national mix target reduces investors' confidence in investing their capital.

Currently, developments require changes in energy management, this aims to reduce greenhouse gas emissions with several Energy Transition policies. Indonesia has issued Government Regulation Number 79 of 2014 concerning National Energy Policy. The main basis that guides the preparation of National Energy Policy is stated in Law Number 30 of 2007 concerning Energy, specifically in Article 1 number 25, is the principle of justice, sustainability and environmental insight in order to achieve national energy independence and security with the policy direction of realizing energy security in order to support sustainable development. The law also mandates the preparation of a General National Energy Plan and a General Regional Energy Plan to support the implementation of National Energy Policy. In connection with this, the resulting National Energy Policy must be truly supported and aligned with General National Energy Plan and General Regional Energy Plan in order to achieve the desired goals and objectives. In order to support and complement these regulations, a draft law relating to New and Renewable Energy is being pursued. However, in the process of drafting and implementing the Law relating to New and Renewable Energy, there were many obstacles and obstacles. In connection with the existence of Indonesia's G20 Presidency which is expected to be able to attract foreign investors to assist in the development of New and Renewable Energy which is under threat, therefore the government hastily issued Presidential Regulation Number 112 of 2022 concerning the Acceleration of Development of New and Renewable Energy for Power Supply Electricity as a special regulation relates to New Renewable Energy.

In reality, energy conversion machines are still widely used in energy processing that use fossil materials or non-renewable energy. The people are collectively constructed by the 1945 Constitution which gives a mandate to the state to carry out policies (*beleid*) and management actions (*bestuursdaad*), regulation (*regelendaad*), management (*beheersdaad*) and supervision (*toezichthoudensdaad*) for the purpose of maximizing the prosperity of the people. Based on the decision of the Constitutional Court

regarding the meaning of "controlling the state" as stated in Article 33 paragraph 3 of the Constitution, all matters related to energy must be controlled by the state and intended for the welfare of the people by being managed and carried out efficiently to create the ideals of the Indonesian nation. Based on the entire description, this legal research raises issues related to "Judicial Review of Investors' Legal Protection in The Development of Renewable Energy" in Indonesia.

Formulation of the Problem

1. What is the guarantee of legal protection for investors in the development of New and Renewable Energy in Indonesia?
2. How is the community involved in preparing legal protection in the development of New and Renewable Energy?

Research Methods

This legal research and writing uses normative juridical methods because the problems and implications contained in legal writing are dominated by differences in policies issued by the government. The normative data and facts contained in this research come from statutory regulations and all policies issued by the government regarding New Renewable Energy. Based on this, the research method is a way to solve a problem which is aimed at determining, discovering, developing or testing the truth of knowledge and interpreting it in accordance with applicable regulations.

This research uses qualitative data. Qualitative data is data expressed in the form of words, sentences and images. The research specifications used are descriptive, which in the normative approach is qualitative descriptive, namely research that explains, describes or analyzes the state of the object being studied as it is in accordance with the situation and legal product being researched. The data collection method in this research is through literature study. The literature study is intended to obtain primary legal materials in the form of statutory regulations, secondary materials in the form of books, literature, journals related to this research as well as tertiary legal materials in the form of legal dictionaries, the Big Indonesian Dictionary. In analyzing the materials owned, this research uses an interpretive method, namely by using normative juridical methods in discussing a legal issue. The analysis used can be in the form of grammatical interpretation, namely interpretation according to grammar and words which are tools for legislators to express their intentions and desires.

Discussion

1. Legal Protection for Investors in New Renewable Energy Development in Indonesia

The government of Indonesia has an effort to develop New and Renewable Energy, the government has issued a series of policies and regulations relating to energy-related regulations in Indonesia. Law of the Republic of Indonesia of 1945, Law of the Republic of Indonesia Number 30 of 2007 concerning Energy, Law Number 32 of 2009 concerning Environmental Protection and Management, Government Regulation Number 79 of 2014 concerning National Energy Policy, Presidential Regulation of the Republic of Indonesia Number 22 of 2017 concerning the General National Energy Plan, Ministerial Regulation Number 50 of 2017 concerning Utilization of Renewable Energy Sources for the Supply of Electric Power, Ministerial Regulation Number 50 of 2018 concerning Amendments to Regulation of the Minister of Energy and Mineral Resources Number 50 of 2017 concerning Utilization of Renewable Energy Sources for Providing Electricity, Minister of Energy and

Mineral Resources Regulation Number 4 of 2020 concerning the Second Amendment to the Regulation of the Minister of Energy and Mineral Resources Number 50 of 2017 concerning the Utilization of Renewable Energy Sources for the Supply of Electric Power, Presidential Regulation Number 112 of 2022 concerning the Acceleration of Development of New Renewable Energy for the Supply of Electric Power.

The National Energy Policy and the General National Energy Plan function as the basis and reference in preparing the General Regional Energy Plan. In the context of concrete steps for sustainable development that focus on economic growth and the industrialization process. General Regional Energy Plan is the authority of the provincial level regional government to design, compile and determine Regional Energy Plan as a concrete and continuing step in implementing the objectives of General National Energy Plan. General Regional Energy Plan is a guideline for long-term and sustainable regional energy development by optimizing the energy potential in each region until 2050¹. The preparation of General Regional Energy Plan is determined through Regional Regulations with the approval of the Provincial Legislatives Council (DPRD). Until now, in its implementation, General National Energy Plan and General Regional Energy Plan have become guidelines for planning programs for the development and utilization of National Energy, including the management of Oil and Gas and the General Plan for National Power Plants.

The government is working on a Draft Regulation regarding the regulation of New and Renewable Energy as an effort to utilize new and renewable energy. To overcome problems in the energy sector in Indonesia on the basis of Law Number 30 of 2007 concerning Energy, the government together with the Representatives Council (DPR-RI) mandated the preparation of a clear and measurable National Energy Policy as a guideline for managing national energy with just, sustainable and insightful principles. environment in order to create energy independence and national energy security². The National Energy Policy was designed and formulated by the National Energy Council (DEN) and through the approval of the Representatives Council (DPR-RI), the National Energy Policy was stipulated in Government Regulation Number 79 of 2014³. The government's main priority is to intensify the completion of General Regional Energy Plan to expedite the achievement of the mix target for the use of New Renewable Energy and the construction of supporting infrastructure and implementation of programs to ensure national energy security. General Regional Energy Plan is expected to be completed on time so that the targets and targets achieved by the region are in line with the vision in General National Energy Plan and National Energy Policy. Apart from that, General Regional Energy Plan is also very important as a legal basis for energy development in each region, a guide for investors to invest, provides a road map, and fulfills energy mix targets⁴.

The preparation of General Regional Energy Plan is determined through Regional Regulations with the approval of the Provincial Legislatives Council (DPRD). Until now, in its implementation, General National Energy Plan and General Regional Energy Plan have become guidelines for planning programs for the development and utilization of National Energy, including the management of Oil and Gas and the General Plan for National Power Plants. The government encourages each province to have its own regional regulations to develop New Renewable Energy. For example, Central Java Province in its implementation uses Regional Regulation Number 12 of 2018 concerning General Regional Energy Plans, Governor's Regulation Number 29 of 2021 concerning Guidelines for the Implementation of General Regional Energy Plan, Governor's Regulation Number 62 of 2019 concerning Regional Action Plans for Sustainable Development Goals of Central Java Province for 2019-2023, Governor Regulation Number 29 of 2021 concerning Regional Action Plans for Reducing Greenhouse Gas Emissions. Then in

¹ Peraturan Presiden Nomor 22 Tahun 2017 Pasal 2 tentang Rencana Umum Energi Nasional.

² Peraturan Pemerintah Republik Indonesia Nomor 79 Tahun 2014 Pasal 2 & Pasal 5 tentang Kebijakan Energi Nasional.

³ Ibid.

⁴ Ibid.

the near future a special Law on New Renewable Energy will be issued at the national level and a Presidential Regulation (Perpres) regarding additional authority at the Provincial and Regency City levels in developing New Renewable Energy in their regions. The commitment to transition fossil-based energy to New and Renewable Energy is being campaigned for and is in line with Indonesia's commitment from the ratification of the Paris Agreement which was promulgated through Law Number 16 of 2016 concerning Ratification of the Paris Agreement to the United Nations Framework Convention on Climate Change.

Ratification of the Paris Agreement is not sufficient enough for the energy transition and as a legal umbrella for New and Renewable Energy development in Indonesia. Indonesia does not yet have a Law on New Renewable Energy specifically as a legal umbrella and optimization effort in terms of management and development that regulates new and renewable energy. This results in legal and political uncertainty for investors and the energy transition so that it has an indirect impact on making it difficult to develop the use of new renewable energy in Indonesia. Regulations relating to renewable energy such as Law Number 30 of 2007 concerning Energy, Law Number 21 of 2014 concerning Geothermal Energy, Government Regulation Number 79 of 2014 concerning National Energy Policy and others are still inadequate to cover all energy scopes. newly updated. The role of optimizing the use of new and renewable energy is still not optimal because the regulations and policies governing it are not clearly outlined in the current regulations. Clear regulations and policies will provide an umbrella and ensure that the utilization and implementation of new renewable energy programs will be integrated and structured. The law relating to new and renewable energy will be the basis for directly encouraging the achievement of national energy mix targets related to new and renewable energy. Integrated and clearly structured regulations have proven to be effective and make the implementation of new renewable energy programs more optimal and efficient in their implementation, including investment.

The role of optimizing the use of new and renewable energy is still not optimal because the regulations and policies governing it are not clearly outlined in the current regulations. Clear regulations and policies will provide an umbrella and ensure that the utilization and implementation of new renewable energy programs will be integrated and structured. The New Renewable Energy Law will be the basis for encouraging the achievement of national energy mix targets related to new renewable energy directly with investors' confidence in terms of a transition map and guaranteed fulfillment of interests. Integrated and clearly structured regulations have proven to be effective and make the implementation of new renewable energy programs more optimal and efficient in their implementation. For example, countries in the Asia Pacific region include Australia (since 2000), Japan (2003), China (2006), Sri Lanka (2007), Mongolia (2007), the Philippines (2008), South Korea (2010), Pakistan (2010), and Malaysia (2011). (Anisatul Umah, 2020).

The government has determined that green energy will be one of the main topics of discussion at the G20 Bali in Indonesia in 2022. In concrete efforts ahead of the holding of the G20, Presidential Regulation Number 112 of 2022 concerning the Acceleration of New Renewable Energy Development for the Supply of Electric Power was issued. This Presidential Regulation contains matters relating to hydroelectric power plants, geothermal, solar thermal, sea water and biofuels. The legal basis for the stipulation of this Presidential Decree is Article 4 paragraph (1) of the 1945 Constitution of the Republic of Indonesia and Law Number 30 of 2007 concerning Energy. The Presidential Regulation aims to increase investment, accelerate and achieve renewable energy mix targets in accordance with the National Energy Policy and support the movement to reduce emissions. Commitment to the energy transition requires a clear investment policy as a legal framework so that it becomes a legal umbrella that can accelerate the increase in the new and renewable energy mix in the country. Apart from that, the New Renewable Energy Law is also planned to be a means of implementing the principle of *lex specialis derogat legi generali* to regulate several legal contents that conflict in other laws.

The sustainable development paradigm is closely related to the environment with the transformation towards renewable energy. The idea of energy democracy which aims to achieve the use of new, renewable energy with the aim of strengthening democracy. Indonesia has Law Number 11 of 2020 concerning Job Creation which contains regulations relating to regulating the business ecosystem by paying attention to the sustainability of the surrounding community and the environment. Expansion of this idea besides the business ecosystem by promoting environmental improvement, solving the problem of the economic crisis by changing to the use of renewable energy-based energy. The targeted business ecosystem is easy but still adheres to standards, safety and security values and pays attention to the green economy. Indonesia also formed the Indonesia Investment Authority which is guided by providing all facilities and infrastructure whose investment focus is on environmentally friendly economic development. The Indonesian economy is focused on increasing energy capacity and using new and renewable energy as an effort to meet future energy needs and transition. Indonesia's active participation in efforts to reduce global emissions and minimize climate change by implementing the Net Zero Emission (NZE) commitment by 2060.

According to the National Energy Policy, the utilization and use of New and Renewable Energy is targeted to reach 23% in 2025 and 31% in 2050. Meanwhile, until June 2023, based on data compiled by Kompas.com, Indonesia is still in the range of 12.3% utilization of New Renewable Energy from total national energy consumption⁵. The lack of progress and development is caused by various factors, including inadequate infrastructure, regional disparities and regulations supporting the development of the green energy transition that are not yet ready. Energy democracy becomes false and it is difficult to run according to targets which are a way for a country to reduce the negative impacts of climate change. An important element in realizing energy democracy is public participation, including foreign investment guaranteed by adequate regulations. In developing new renewable energy, it is necessary to implement energy democracy which is supported by the New and Renewable Energy Law and pay attention to the role of community participation in renewable energy investment policies clearly in adequate laws and regulations.

Based on the description above, the Indonesian government, through the DPR, has set priorities in launching and regulating New and Renewable Energy, but there is no clear progress. The New Renewable Energy Bill has been included in the National Legislative Program (Prolegnas) for 2020-2024 which is currently in the discussion stage in the Representatives Council (DPR). Policies and regulations regarding New Renewable Energy are the government's breakthrough efforts to encourage the success of the mix target of 23% utilization of New Renewable Energy in Indonesia by 2025 as the main regulatory. In reality, the Draft Law on New Renewable Energy, which should be the main legal source and basic guidelines, is still stalled and all regulations related to the use of New Renewable Energy still do not have clear legal certainty as well as the stipulation of Presidential Decree Number 112 of 2022 concerning the Acceleration of Development of New Renewable Energy for Power Supply. The controversial electricity seems to have been rushed and has many implications and does not guarantee legal certainty regarding investors' interests in the development of New Renewable Energy.

2. Community Involvement in Preparing Legal Protection Policies for Investors in New Renewable Energy Development

A good legal system will support the implementation of the development strategy implemented by the government. Indonesia in managing new and renewable energy experiences obstacles from various sides including legal culture and legal substance. This has an impact on various sectors by causing several supporting factors, the renewable energy investment climate in Indonesia is less conducive for

⁵ Kompas.id, 2023, Merealisisikan Target Bauran Energi Baru Terbarukan, <https://www.kompas.id/baca/riset/2023/06/14/merealisisikan-target-bauran-energi-baru-terbarukan> (diakses pada 3 Januari 2024)

entrepreneurs/private sectors, also influenced by inconsistent political commitment⁶. The inconsistency of policies and regulations governing the prospects for a green energy transition is still not attracting investors. Regulations are not very supportive of New and Renewable Energy development, making development progress through bankable projects high risk. This has an impact on the availability of capital being limited and resulting in a lack of green energy projects as a step in developing New and Renewable Energy. Then, the knowledge and literacy of the Indonesian people regarding New and Renewable Energy is still low.

New renewable energy policies require community participation and the idea of energy democracy towards green energy can be implemented. New and Renewable Energy investment policies require widespread participation because the business requires large capital and cooperation between the government, investors and the community. Advanced technology is also needed to support New and Renewable Energy business, one way is by opening investment platforms for the New and Renewable Energy sector. However, the Indonesian government is still unable to formulate adequate policies to meet the needs for regulating new and renewable energy. Based on Minister of Energy and Mineral Resources Regulation No. 50 of 2017 concerning the Utilization of Renewable Energy Sources for the Supply of Electricity causes new and renewable energy projects to be hampered due to uncertainty in the Presidential Regulation regarding the determination of new and renewable energy tariffs and hampers investment channels from the private sector and abroad. In fact, regulations and policies that are technically and economically adequate globally are needed to be able to set tariffs for new and renewable energy nationally.

Determining new and renewable energy tariffs and formulating technical implementation of all forms and types of new and renewable energy are efforts to realize sustainable energy management, uphold justice and control environmental damage. This is a form of the direction of the National Energy Policy towards national energy security by exploiting and using new and renewable energy. The energy transition towards optimal use of New and Renewable Energy is stated in the National Energy Policy and the General National Energy Plan with a mix target of 23% in 2025 and 31% in 2050⁷.

Special policies related to the energy transition map guarantee investors' interests in supporting the investment climate to provide convenience in the process of digitizing permits, tax incentives, establishing New and Renewable Energy development businesses, and so on. There is hope in the New and Renewable Energy Bill, which is still stalled, to open up public participation in efforts to develop New and Renewable Energy. When viewed from an investment theory perspective, it can be said that Indonesia applies the middle path theory which places foreign investment can have a positive impact on the host state, but is still given limitations so that it does not have a detrimental impact on the host state itself⁸. The government is obliged to guarantee the interests of investors as well as preserving the environment and surrounding communities.

The Indonesian government, in its efforts to realize the energy transition and implement the idea of energy democracy, is obliged to regulate community involvement in the New and Renewable Energy Law Draft as a democratization process. New and Renewable Energy development which requires investors and the community requires legal certainty regarding arrangements for community involvement to mediate interests between parties and attract more interest from investors to assist the government in developing New and Renewable Energy. Indonesia which adheres to a civil law system, (Choky Ramadhan, 2018), places legal rules that can guarantee legal certainty as a priority, accompanied by the hope of guaranteeing certainty to prevent future disputes with the community that could harm investors.

⁶ SIEJ, 2022, "Fakta EBT dan Kendala", <https://siej.or.id/2022/09/02/fakta-ebt-dan-kendala/> (diakses pada 29 Januari 2024)

⁷ Pusat Kajian Sistem Energi Nuklir (PKSEN), 2021, Status Pemanfaatan Energi Baru Terbarukan dan Opsi Nuklir Dalam Bauran Energi Nasional, <https://media.neliti.com/media/publications/480409-none-fb1919ec.pdf> (diakses pada 3 Januari 2024)

⁸ M. Sonarajah, *The International Law on Foreign Investment*, Cambridge University Press, New York, 2010, hlm. 54.

Efforts to develop New and Renewable Energy are expected to have an impact on reducing the use of fossil energy. The abundant and diverse potential of New and Renewable Energy that can be exploited in Indonesia is one of the advantages of efforts to accelerate the use of New and Renewable Energy as a process towards a green energy transition. Based on reports and monitoring results, the National Energy Council (DEN) has made efforts to coordinate and provide guidance to local governments for the use of New and Renewable Energy. In 2022, National Energy Council (DEN) has encouraged regional governments to formulate and establish Provincial General Regional Energy Plans (RUED-P) so that there are 25 provinces completing Regional Regulations on General Regional Energy Plans and 9 Provinces in the preparation processes to complete the stages of establishing Regional Regulations related to utilization of New and Renewable Energy.

An important component that needs to be considered in meeting investors' interests is that investment takes into account two main points, namely certainty and efficiency (Erman Rajagukguk, 2005). Certainty is a component that investors pay attention to in terms of legal regulations relating to the field they will invest in. Policies or legal regulations that guarantee legal certainty, are stable and not easily changed and pay attention to investors' legitimate expectations. The policies and legal regulations that are formed should be transparent and supported by community participation in the formation process so that the development of New and Renewable Energy is not hampered. Information that is not transparent and minimal public participation will cause demonstrations and rejection from the community and cause investors to be reluctant to invest in the project.

In the draft regulations of New and Renewable Energy, regulations regarding community participation have been regulated regarding community rights in the development of New and Renewable Energy in general and will be further regulated in Government Regulations. However, at the regulatory level, the government as the implementer of the law still does not explicitly regulate community involvement. Moreover, the Energy sector is categorized as risk-based business, regulated in Government Regulation Number 5 of 2021 concerning the Implementation of Risk-Based Business Licensing. The draft regulations in the New and Renewable Energy are not detailed enough to cause problems to arise even though this is an important component in the ongoing development of New and Renewable Energy. The Government's role in developing New and Renewable Energy can be through policies and regulations. It is hoped that the formation of a special law on New and Renewable Energy can fill the legal void related to New and Renewable Energy, guarantee legal certainty and protection for businesses in the procurement, utilization, development and sustainable management of New and Renewable Energy.

Cross-sectoral coordination related to the development of New and Renewable Energy in licensing issues and the division of central and regional authority has not been implemented optimally. The government's commitment in terms of investment policy and guaranteeing the fulfillment of interests, including the division of authority, needs to be increased. The energy transition map and data on the potential for New and Renewable Energy which are sources of reference and consideration for investors have not yet convinced and encouraged efforts to increase investment in the New and Renewable Energy sector. Provisions regarding incentives and licensing procedures, which are important topics in development, are not yet detailed and effective in addressing the fulfillment of investors' interests in contributing to developing New and Renewable Energy with the government.

Disharmonization of regulations and policies related to the development of New and Renewable Energy in Government Regulation Number 79 of 2014 concerning National Energy Policy uses a feed-in tariff mechanism. In its efforts to develop New and Renewable Energy, the government is trying to prepare more detailed regulations regarding New and Renewable Energy prices through the draft regulations of New and Renewable Energy. The hope of accommodating and overcoming disharmony or the implications of this policy needs to include various things related to cutting the licensing chain, clear

environmental permits, community involvement in New and Renewable Energy development in order to encourage the acceleration of New and Renewable Energy development through investment.

The success of attracting investment both from abroad and within the country to exploit energy resources depends on three factors, namely opportunity, legal certainty and political stability.^(Abadi Poemomo, 2016) Basically, before investors invest, there needs to be balanced risk and opportunity management. Dynamics in regulations and legal certainty regarding fulfilling investors' interests, the division of government authority in New and Renewable Energy development activities, incentives and an immature transition map are among the reasons for hampered investment. The very large funds in developing New and Renewable Energy need to be supported by legal certainty and support from all parties including the government and private sector including investors.

Conclusion

Investment policies specifically regarding the development of New Renewable Energy in Indonesia as outlined in the New Renewable Energy Draft Law are still inadequate. Several implementing regulations have been formed that do not yet regulate community participation and meeting investor interests. The idea of energy democracy in the development of New Renewable Energy can be implemented through public participation by opening up transparency in New Renewable Energy development policies. Regulations regarding rights and obligations as well as a map of the energy transition towards green energy that is known to the public will provide legal certainty and confidence in investments so that they are easily accepted by the public and easy to carry out. The development and utilization of new and renewable energy will not be successful if it is only pursued by the authorities, but there needs to be a synergy between clear regulations, adequate infrastructure, optimal performance from institutions and authorities and public awareness of the importance of the transition from fossil energy to New Renewable Energy in various ways, namely outreach, appeals and invitations as well as programs that attract public interest.

The presence of Presidential Regulation Number 112 of 2022 indicates that the government is only trying to get investors in the energy transition program. In fact, this Presidential Decree has implications for government policy relating to New Renewable Energy in an effort towards Net Zero Emission (NZE) by 2060. The government in terms of efforts to fulfill the policy formulation has drafted and stipulated Presidential Regulation Number 112 of 2022 concerning the Acceleration of New Renewable Energy Development for Providing Electric Power. The concrete manifestation of state authority in formulating policies through Presidential Decree Number 112 of 2022 concerning the Acceleration of New Renewable Energy Development for the Supply of Electric Power is deviant and contrary to the Business Plan for the Supply of Electric Power (RUPTL) which was supposed to be up to 2023 but has become 2032 and is damaging the environment and harming the people.

Reference

- AE. Setyono, and B. F. T. Kiono. (2021). Dari Energi Fosil Menuju Energi Terbarukan: Potret Kondisi Minyak dan Gas Bumi Indonesia Tahun 2020 – 2050. *Jurnal Energi Baru dan Terbarukan*, vol. 2, no. 3, pp. 154-162.
- Azhar, M., and Satriawan, D. A. (2018). Implementasi Kebijakan Energi Baru dan Energi Terbarukan Dalam Rangka Ketahanan Energi Nasional. *Administrative Law and Governance Journal*, [Online] Volume 1(4), pp. 398-412. <https://doi.org/10.14710/alj.v1i4.398-412> .

- Budiman, Isa, dkk. (2020). Analisis Pengaruh Konsumsi Energi Terhadap Pertumbuhan Ekonomi dan Emisi Karbondioksida di Indonesia. <https://repository.ipb.ac.id/handle/123456789/102933> (diakses pada 18 Desember 2023) .
- Choky Ramadhan. (2018). Konvergensi Civil Law Dan Common Law Di Indonesia Dalam Penemuan Dan Pembentukan Hukum,” *Mimbar Hukum - Fakultas Hukum Universitas Gadjah Mada* 30, no. 2 : 213, doi:10.22146/.
- Dewan Energi Nasional. (2020). *Bauran Energi Nasional*. Jakarta: Sekretariat Jenderal Dewan Energi Nasional.
- Farah Nabila. (2015). Menjaga Kedaulatan Energi Dengan Reformasi Kebijakan Diversifikasi Sumber Daya Energi, *Jurnal Hukum dan Pembangunan*, Tahun 45, Nomor 1.
- Kementerian Pendayagunaan Aparatur Negara dan Reformasi Birokrasi. (2022) Energi Baru Terbarukan Prioritas Pembangunan Indonesia Masa Depan. <https://www.menpan.go.id/site/berita-terkini/berita-daerah/energi-baru-terbarukan-prioritas-pembangunan-indonesia-masa-depan>.
- Lubis, A. (2007). Energi Terbarukan Dalam Pembangunan Berkelanjutan. *Jurnal Teknik Lingkungan*. 8(2),155-162 .
- Lumbangaol, P. H. (2007). Energi Terbarukan Untuk Pembangunan Berkelanjutan Di Indonesia. *Fakultas Teknik Universitas HKBP Nommensen*, 1(4), 1–14. Retrieved from [https://uhn.ac.id/files/akademik_files/1905061558_2017_Jurnal Fakultas Teknik Volume II Nomor 2_Energi Terbarukan Untuk Pembangunan Berkelanjutan Di Indonesia.pdf](https://uhn.ac.id/files/akademik_files/1905061558_2017_Jurnal_Fakultas_Teknik_Volume_II_Nomor_2_Energi_Terbarukan_Untuk_Pembangunan_Berkelanjutan_Di_Indonesia.pdf).
- Maidasari, T., Prakoso, L. Y., & Murtiana, S. (2023). Renewable Energi As A Green Economy Stimulus in Indonesia. *Jurnal Energi Baru dan Terbarukan*, 4(3), 183-191.
- Maschun, A. (2015). Roadmap Pembangunan Energi Baru Terbarukan Untuk Ketahanan Energi. *Dana Mitra Lingkungan*, (4), 7–8.
- Mutia Muhammad, (2019), “Evaluasi Kebijakan Indonesia: Peningkatan Investasi Asing Di Sektor Kelistrikan Berbasis Green Energy”, *OISSA JOURNAL OF INDONESIA EMAS*, Vol.2, No.1.
- Nasution, Johan Bahder. (2008). *Metode Penelitian Ilmu Hukum*. Bandung : Nandar Maju.
- Pusat Perancangan undang-Undang. (2018) . Naskah Akademik Rancangan UU Tentang Energi Baru dan Terbarukan. Jakarta: Badan Keahlian DPR RI .
- Pusat Studi Hukum Energi dan Pertambangan. (2021). “Draf Rancangan Undang-Undang Republik Indonesia tentang Energi Baru dan Terbarukan tahun 2021”, <https://pushep.or.id/wpcontent/uploads/2021/04/DRAF-RUU-EBT-25- Januari-2021.pdf>.
- Putri, Dinda Silviana and Arsalan, Haikal and Ulfa, Mariah (2022) Partisipasi Publik Dalam Kebijakan Investasi Energi Terbarukan di Indonesia : Perspektif Demokrasi Energi (Public Participation in Renewable Energi Investment Policy in Indonesia : A Democratic Energi Perspective). *Jurnal Rechtsvinding: Media Pembinaan Hukum Nasional*, 11 (3). Pp. 473-491. ISSN 2580-2364.
- Purwanto, A., Yulianti, D., Sulastri, Y., Wijayaingtyas, C., -, S., & -, I. (2023). EVALUASI ENERGI BARU & TERBARUKAN (EBT) BERBASIS BAYU UNTUK KALIMANTAN TIMUR. *Jurnal Analis Kebijakan*, 7(2), 136-152. <https://doi.org/https://doi.org/10.37145/jak.v7i2.656>.

- R. Kemala Nababan. (2016). “Kewenangan Pemerintah Pusat dan Pemerintah Daerah dalam Kerangka Pengelolaan Panas Bumi Untuk Pemanfaatan Tidak Langsung di Indonesia,” (Skripsi Universitas Indonesia, 2016), <https://www.lontar.ui.ac.id/detail?id=20431044&lokasi=lokal>.
- Rajagukguk, Erman. (2005). Modul Hukum Investasi di Indonesia. Jakarta : Universitas Indonesia.
- Ridlo, R., & Hakim, A. (2020). Model Energi Indonesia , Tinjauan Potensi Energy Terbarukan Untuk Ketahanan Energi Di Indonesia : Literatur Review. Jurnal Pengabdian Kepada Masyarakat (ANDASIH), Vol. 1, 1–11.
- Suteki & Galang Taufani. (2018). Metodologi Penelitian Hukum (Filsafat, Teori Dan Praktik). Depok: Rajawali Pers.
- Winanti, Poppy S., et. al. (2021). Ekonomi Politik Transisi Energi di Indonesia: Peran Gas dalam Transisi Energi Baru dan Terbarukan. Yogyakarta: Fakultas Ilmu Sosial dan Ilmu Politik, Universitas Gadjah Mada.
- Yaqin, N. (2014). *Skenario Kebijakan Pengembangan Energi Baru Terbarukan dalam Upaya Menjaga Ketahanan Energi Nasional dan Membangun Green Energy Constellation Hingga Tahun 2025 (Studi pada Direktorat Jenderal Energi Baru Terbarukan dan Konservasi Energi)* (Doctoral dissertation, Universitas Brawijaya).

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