

# Optimizing the Implementation of Immigration Supervision on Foreign Investors (Study at the Class I Non-TPI Immigration Office, Central Jakarta)

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## ABSTRACT

This study aims to find out what obstacles are faced in the supervision of foreign investors and the countermeasures carried out at the Immigration Office Class I Non TPI Central Jakarta. In this study, the authors used normative and empirical research methods, while the data sources were obtained using primary and secondary data. Data collection techniques were carried out using qualitative methods in the form of literature studies, field observations or observations, and also interviews. The results of the study indicate that there are several obstacles that prevent officers from carrying out immigration control such as legal factors that regulate foreign investors, law enforcement factors related to those carrying out law enforcement, facilities or facilities that should facilitate work, cultural factors of the community in responding to foreigners who commit a violation, and also related to the supervisory factor in data transparency of Foreign Investors.

## ABSTRAK

Penelitian ini bertujuan untuk mengetahui kendala apa saja yang dihadapi dalam pengawasan Penanam Modal Asing serta upaya penanggulangan yang dilakukan pada Kantor Imigrasi Kelas I Non TPI Jakarta Pusat. Dalam penelitian ini penulis menggunakan jenis metode penelitian normatif dan empiris sedangkan sumber data diperoleh menggunakan data primer dan data sekunder. Teknik pengumpulan data dilakukan dengan metode kualitatif berupa studi kepustakaan, pengamatan lapangan atau observasi, dan juga wawancara. Hasil penelitian menunjukkan terdapat beberapa kendala yang menghambat petugas dalam melaksanakan pengawasan keimigrasian seperti dari faktor hukum yang mengatur Penanam Modal Asing, faktor penegak hukum terkait pihak yang melaksanakan penegakan hukum, faktor sarana atau fasilitas yang seharusnya memudahkan pekerjaan, faktor budaya masyarakat dalam menyikapi orang asing yang melakukan pelanggaran, dan juga terkait faktor pengawasannya dalam transparansi data Penanam Modal Asing.

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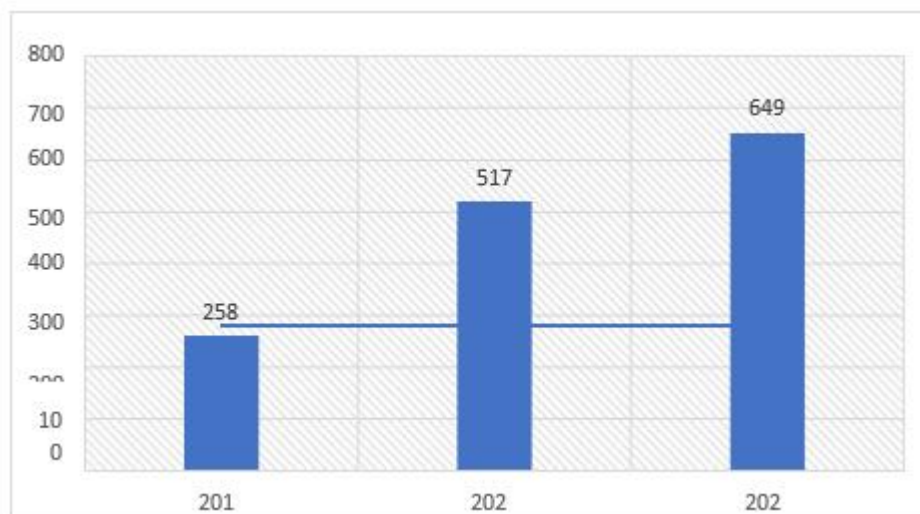
## I. INTRODUCTION

The territory of Indonesia can be said to be one of the destination countries for investors, because Indonesia is the center of the market which is seen in investment choices. According to

investment realization data from the Investment Coordinating Board (BKPM) in January to March 2022, FDI investment increased by 31.8% compared to Quarter I in 2021. Investment realization in the Java Region was Rp 133.7 trillion (47, 3%), of which Rp. 73 trillion came from Domestic Investors (PMDN) and US\$ 4.2 billion from Foreign Investors (Grisvia et al., 2022). This increase can occur because one of them is through the downstreaming of the raw material industry. In addition, in increasing the country's economic growth, the government is making it easier for foreigners to invest in Indonesia, one of which is through President Joko Widodo's policy of prohibiting the export of raw materials or by downstreaming investment, especially in the industrial sector (Mardatillah, 2021). Downstreaming is an industrial modernization that creates raw components into industries that produce finished goods. Downstreaming of industry is quite important considering that Indonesia is a country with abundant natural resources. Downstreaming of industry aims to increase export sales value. So the more domestic investments made will support the government's program in encouraging the implementation of industrial downstreaming in Indonesia (Agung & Adi, 2022).

This of course has a good impact on the Indonesian economy when foreigners visit and settle in Indonesian territory using travel documents and visas that are legal and still valid and pass through immigration checks at the Immigration Checkpoints (Hamidi & Christian, 2021). Based on Part One Elucidation of Law Number 6 of 2011, Indonesian Immigration applies a selective policy that allows only foreigners who do not disturb the peace and are of benefit to those who are given permission to stay in Indonesian territory. This selective policy can help prevent troubled foreigners, but for foreigners already living in Indonesia, immigration control can be used to evaluate whether the foreigner's goals and intentions in the country are aligned (Dylan, 2020). Immigration services that have an impact on national economic development are in the form of convenience in immigration facilities such as passport services, granting visas (entry permits) and residence permits for foreigners.

The Central Jakarta area is one of the cities in Indonesia with good infrastructure, shopping centers, and is also filled with various cultures and many more that make many Indonesian citizens or foreigners living and productive in the Central Jakarta area. The Immigration Office Class I Non TPI Central Jakarta is part of the technical implementation unit in DKI Jakarta which covers the working areas of Menteng, Tanah Abang, Sawah Besar, Johar Baru, Senen, Cempaka Putih, Kemayoran, and Gambir. In carrying out its duties and functions, the Immigration Office Class I Non TPI Central Jakarta serves applications for residence permits for foreigners to be able to stay in the territory of Indonesia. In the period 2019 to 2021, there is a fairly high number of residence permit applications, in this case the ITAS for Foreign Investors. The following data is shown by the author in the form of a graph of ITAS holders of investors in Central Jakarta.



Graph 1. Investor ITAS holders in Central Jakarta

From the graph, it can be seen that there are many foreign investors and there is also an annual increase. But in reality, based on the data found by the author, there are still immigration violations by foreigners. As for one example of a case at the Immigration Office of Class I Special Non TPI, Central Jakarta which the author raised was a violation of the residence permit of foreign investors in which the foreigner in obtaining a visa or residence permit for himself used the method of giving letters or information and/or data that fake or falsified. Thus, a firm attitude from the immigration authorities is needed in terms of supervision and law enforcement in following up on the presence of foreigners who live in Indonesian territory and do not obey or violate the rules (Syam, 2020). The purpose of this study is to determine the implementation of immigration control against foreign investors.

## II. RESEARCH METHODS

In this study, two legal research methods were used, namely by using the normative-empirical method. The purpose of the normative research method is legal research with the concept of looking at the law from its regulations such as written rules, laws, and current laws (Efendi, 2018). This study looks at how the law is applied through legislation, legal theory, and expert views based on the literature and literature. Empirical legal research is a study that examines how the law is implemented in society and how the law operates (Tripa, 2019). In normative research, the author focuses on the field of research to be studied, namely on legal issues. In law, a review in the application of law that is driven by theories and concepts in the field of law, compared to legal facts, creates disharmony between "what should happen (*das sollen*)" and "what happens in the field (*das sein*)", but what is intended to happen from the application of the law does not appear to be as desired or may even result in conflict, resulting in injustice, instability, and legal ambiguity in society. The research location is in the working area of the Immigration Office Class I Non TPI, Central Jakarta, which is located at Jl. Merpati Number 3, RW.10, Gunung Sahari Utara, Kemayoran District, Central Jakarta, Special Capital Region of Jakarta. The data sources used are primary and secondary data sources. Data collection techniques with library research, field studies and interviews. Data analysis with data reduction, data presentation and conclusion drawing.

## III. RESULTS AND DISCUSSION

1. Obstacles Faced by Immigration Officers When Carrying Out Immigration Supervision of Foreign Investors
  - a. Legal Factors Related to Regulations Regulating Foreign Investors

Foreign investors themselves have been regulated in the immigration regulations contained in Law Number 6 of 2011 concerning Immigration and Government Regulation Number 31 of 2013 along with its amendments to Government Regulation Number 48 of 2021 and also Regulation of the Minister of Law and Human Rights Number 29 of 2021. The aforementioned regulations regulate visas, residence permit procedures, status transfer, or residence permit applications, and also include foreign investors in both the C313 and C314 limited stay visa applications submitted through the Directorate General of Immigration. Foreign investors themselves to make investments must include a letter of recommendation from the BKPM in accordance with the Regulation of the Minister of Law and Human Rights Number 29 of 2021 Article 34 for the application of a Limited Stay Visa, Article 79 for the application for a Limited Stay Permit, and Article 168 for the application for a transfer of status of a Stay Permit. Limited, as well as Article 199 and Article 200 for application for transfer of status of Permanent Stay Permit.
  - b. Immigration control factors

The implementation of immigration control carried out by immigration officers is of course very important in terms of monitoring the existence and activities of foreigners in Indonesia. So an understanding of regulations outside the realm of immigration is also important. Officers must also understand the regulations governing foreign investors and other technical regulations where these regulations are outside the scope of immigration regulations so that it can be said that immigration is a complex matter. As for carrying out supervision optimally, it is certainly quite difficult considering the complex area of Central Jakarta because it is filled with buildings ranging from residential areas to business and industrial shopping centers. Supervision is carried out on both Indonesian citizens and foreigners crossing into or out of Indonesian territory, especially on the activities and presence of foreigners in Indonesia. Therefore, it is necessary to coordinate or cooperate as stated in Article 69 of Law Number 6 of 2011 which is carried out with other agencies related to the supervision of the presence and activities of foreigners in Central Jakarta.

c. Facilities or Facilities Factors Related to Foreigner Reporting Applications and Community Factors Supporting the Implementation of Immigration Control

The guarantor or sponsor has responsibility for the existence and activities carried out by foreigners who are guaranteed. Likewise, the caretaker or manager of the residence or lodging of foreigners and individuals from the community have the obligation to report and provide data regarding foreigners who live or stay in the vicinity. It is stated in Article 72 paragraph (2) of Law Number 6 of 2011 concerning Immigration that every administrator or manager of a foreigner's residence or inn is obliged to submit information regarding foreigners who are in his inn (Tarigan et al., 2020). Therefore, it is necessary to report from the public and guarantors as well as residence owners who are reported through the Foreigner Reporting Application or better known as APOA. The Foreigner Reporting Application is an internet-based application that is useful in facilitating the process of reporting foreigners (Mulyawan & Gandul, 2018). This application is also used by immigration officers as a source of data and information to carry out surveillance of foreigners. The owner of the inn itself is obliged to report foreigners staying at the latest 1x24 hours since the foreigner enters and resides or stays overnight.

d. Cultural Factors Related to Attitudes towards Foreigners

Indonesia's culture, one of which is the culture of the people in Central Jakarta, which has implemented the element of "Bhinneka Tunggal Ika" because it can be said that the City of Jakarta is a center for overseas migration with the aim of having a better life in the capital. So people have become accustomed to and have a high tolerance for customs from other cultures. Society in dealing with foreigners who come is very accepting and friendly to foreigners. Especially in Central Jakarta, considering the benefits of tourism that are carried out and the community reacts well. For foreign investors themselves, the community is also very welcoming and welcomes foreigners who make investments.

e. Supervision Factors in the Integration of the Immigration System Related to Data Transparency of Foreign Investors

The application for a residence permit for foreign investors is required in the form of a recommendation letter from the relevant agency so that the application can be accepted and processed by the immigration officer. However, an obstacle was found where the extension of the residence permit for investment did not include a letter of recommendation from the latest relevant agency (Jazuli, 2018). So related to indirect supervision or administrative supervision for the validity of the correctness of the data provided can not be seen by the officer except for checking independently by opening the [ahu.go.id](http://ahu.go.id) page directory and then making a payment of IDR 50,000.00 to view the company's latest profile and pay IDR 500,000 to view the company's full profile.

To check the validity of the data related to whether it is true that during the investment made by the foreign investor, there is no change in capital, administrative supervision is required by

the immigration officer because the latest recommendation letter is only attached when applying for a Limited Stay Permit and changing the status of a Stay Permit. Immigration here only provides facilities in the form of residence permits and supervises the granting. The Head of the Residence Permit Subsection, Mr. Aditia Mawardi explained that there was indeed cooperation between the immigration authorities and the relevant agencies in terms of foreign investors, but only limited to the issuance of Limited Stay Visas for Investors. Foreign Capital. To check the validity of the data related to the truth, so far there has been no concrete commitment or cooperation or agreement made from the Immigration Office, more precisely the Immigration Office as a Technical Implementing Unit in the field with the Directorate General of AHU and BKPM for online and systematic checks regarding the extension of the residence permit.

## 2. Efforts Implemented in Overcoming Obstacles Occurring in the Work Areas of the Class I Non TPI Immigration Office, Central Jakarta

### a. Implementation of Periodic Monitoring Activities

The Stay Permit and Immigration Status Section carries out administrative supervision while the field supervision is carried out by the Immigration Intelligence and Enforcement Section. In this case, supervision is carried out as a preventive effort or as a preventive measure taken against foreigners so that immigration violations do not occur (Hasan, 2015). Foreign investors are also included in the subject of immigration supervision carried out by immigration officers. Of course, the officer must see fundamentally that the immigration function is one of them.

### b. Cooperation with Related Agencies in Supervision of Foreigners

Immigration officers in carrying out immigration supervision also cooperate and coordinate with other agencies such as the Foreigner Supervision Team or TIMPORA which is regulated in Permenkumham Number 50 of 2016 concerning the Foreigner Supervision Team. TIMPORA itself is a group consisting of several agencies or related parties or government agencies that have the same duties and functions in terms of the presence of foreigners in Indonesia. TIMPORA is very helpful for immigration authorities in terms of supervision and prosecution of foreigners by providing information and reporting related to immigration violations in the Central Jakarta area and will be followed up with supervision and if proven true, appropriate legal action will be taken. The purpose of the establishment of TIMPORA is to create a structured and equitable supervision regarding the presence and activities of foreigners in Indonesia, which is formed both at the central and regional levels. Joint operations can be carried out if necessary to carry out the duties and functions of TIMPORA.

### c. Conducting Outreach to the Community Regarding Immigration

The National Investment and Tourism Program is strongly supported by the Directorate General of Immigration by facilitating the granting of visas and residence permits to support this initiative. Immigration on the other hand also acts as a gatekeeper of the state, which is the key in terms of the entry and exit of people from and into the territory of Indonesia. In other words, Immigration is involved in monitoring the presence and activities of foreigners in the country (Syahrin & Syahada, 2020). Immigration officials in order to carry out their intelligence role carry out immigration checks and security by going to locations such as hotels, company offices, housing estates, hostels, guesthouses, or other places where information about the whereabouts and activities of foreigners is suspected. The Central Jakarta Immigration Office hereby takes preventive measures or preventive measures by providing immigration-related information, whether aimed at foreigners or the wider community. One of the ways carried out by the Central Jakarta Immigration Office is to carry out outreach activities. This socialization is in the form of providing information related to immigration regulations that must be obeyed by foreigners.

### d. Enforce Immigration Law

In carrying out the function of law enforcement, the actions taken can be in the form of Immigration Administrative Actions or the Provision of Criminal Actions or pro justitia. Administrative action means action in the form of sanctions given outside the scope of the court (Setiadi, 2018). Immigration officials have the authority to give Administrative Actions to foreigners based on suspicions or suspicions of those who do or are reasonably suspected of carrying out dangerous activities or disturbing public security and order and not complying with various applicable rules. carried out at the Central Jakarta Immigration Office is law enforcement in the form of administrative actions only such as deportation and inclusion of a list of deterrence. Meanwhile, criminal acts or prostitution itself have never been carried out against foreign investors because basically the principle of investigation is more time-consuming and costly compared to the process of implementing Immigration Administrative Actions.

#### IV. CONCLUSION

Based on the results of research and discussion, the obstacles faced by immigration officers when carrying out immigration supervision of foreign investors are seen from the five elements of law enforcement. In legal factors, there are obstacles in the absence of regulations regarding the addition of a letter of recommendation from the latest relevant agencies for the extension of residence permits for foreign investors. In law enforcement factors, there are obstacles where the implementation of supervision in the Central Jakarta area and also the officers' understanding of regulations outside the realm of immigration. Facilities or facilities and community factors, namely the Foreigner Reporting Application, which experienced disturbances which made it difficult for the public to report. Cultural factors where the indifferent nature of the Indonesian people appears regarding the presence of foreigners in Indonesia. The supervisory factor is checking the validity of the application data which is not effective. This obstacle is also an inhibiting factor for immigration officers in carrying out their duties which causes law enforcement to not run optimally. Efforts are made to overcome the obstacles that occur, namely by carrying out routine supervision activities carried out by the Inteldakim Section to find out related to the existence and activities carried out by foreigners in accordance with the intent and purpose of visiting and living in Indonesia. Then the cooperation is carried out with related agencies or government institutions that have tasks and functions that are in line with the implementation of the supervision of foreigners. This collaboration is implemented in the form of a Foreigner Monitoring Team or TIMPORA.

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