



Original Article

**SUPERVISION AND ENFORCEMENT OF IMMIGRATION FOR
FOREIGNERS WHO COMMIT VIOLATIONS IN INDONESIAN TERRITORY**

Fajar Harry Murcahyo¹⁾, Subekti¹⁾*

¹⁾ Magister of Law Science, University of Dr Soetomo, Indonesia

*Corresponding Author, E-mail : subekti@unitomo.ac.id

ABSTRACT

Background. The issue of supervision of foreigners plus illegal immigrants is a very sensitive issue in the Asia Pacific region because it involves many countries and is cross-border in nature. The use of Visa-Free Visit Permits is a modus operandi for foreigners to stay in Indonesian territory and then commit immigration violations which include misuse of stay permits, overstay, illegal immigrants, use of fake travel documents, cybercrime. The research purpose was to determine supervision and enforcement of immigration by immigration officer for foreigners who commit violations in the territory of Indonesia.

Research Method. This research was a normative legal research. Sources of legal materials used are primary and secondary legal materials. The legal materials obtained will be analyzed using a qualitative analysis method, namely an analysis that departs from the norms, principles that exist as positive legal norms which are then analyzed qualitatively with the understanding that the results of the analysis will be realized in the form of descriptions not in the form of numbers.

Findings. The supervision of foreigners is carried out in the form of administrative, coordinative and on-site supervision with one field operation. The actions taken are refusal to grant visa, refusal to allow entry into Indonesian territory, change, limit/ cancel immigration permit, prohibit foreigners to be in a certain place in Indonesian territory.

Conclusion. In the event of a criminal offense, immigration may conduct process of criminal procedure law. In certain cases, immigration may take immigration action directly such as expulsion or deportation.

Keywords: Enforcement, Foreigners, Immigration, Supervision.

BACKGROUND

The movement of people across national borders today does not necessarily move only on the basis of personal will, but also leads to the interests of groups and groups with certain missions or motives to seek benefits or interests, with good or bad goals, so that this movement has certain patterns. Of course, this particular pattern or motive must be watched out by a country as a response to the increasing human movement. This kind of human movement activity is called migration.[1]

The movement of a person across the borders of a country in violation of the law or illegally according to the laws or regulations in force in that country is Illegal Migrant. In Indonesia, the process becomes illegal if it violates the provisions related to the process of entering or leaving the territory of Indonesia as stipulated in the Immigration law.

People who migrate illegally are called illegal immigrants. Illegal immigrants consist of two types, namely 1) Foreigners who enter the territory of a country illegally (without

having a valid and valid travel document, or a valid and valid visa) either by land, sea or air; 2) Foreigners who legally enter a country, but whose immigration permit has expired and are still within the territory of the country and misuse or carry out activities that are not in accordance with the purpose of granting immigration permits granted to them.

The issue of foreigner control plus illegal immigrants is a very sensitive issue in the Asia Pacific region because it involves many countries and is cross-border in nature. These immigrants come from various countries, mostly from the Middle East and South Asia and are heading to Australia. Illegal immigrants are a group of people who enter the destination country without going through the prescribed procedures, without visas and other documents. Illegal immigrants mostly dare to take such actions without considering the risks of going from their home country to the immigration destination country because they feel unsafe and in a certain state of danger which is the reason they leave their home country.[2]

The use of a Visa-Free Visit Permit has become a modus operandi for foreigners to stay in Indonesian territory and then commit immigration violations, including the number of foreign workers who abuse residence permits, overstay, illegal immigrants, use of fake travel documents, cybercrime and others. Furthermore, in following up a case of immigration violation, it can be resolved by criminal or administrative legal process. For this reason, there needs to be a clear boundary in the law enforcement process that can be taken, namely between criminal legal action and administrative legal action, so that the process of resolving immigration cases can be carried out quickly, effectively and efficiently.[3]

Law No. 6 Year 2011 Article 1 (1) on Immigration, confirms that Immigration is a matter of movement of people in or out of the Indonesian Territory as well as its supervision in order to maintain the sovereignty of the state. Implementing the main tasks and functions of the Directorate General of Immigration carries out the Immigration function as referred to in Article 1 paragraph (3) "The Immigration function is part of the state government affairs in providing Immigration services, law enforcement, state security, and facilitating the development of public welfare."

The immigration efforts that have been made are the implementation of selective policies that are implemented by taking into account the balance between the Security Approach and the Prosperity Approach. This policy requires that only foreigners who can bring benefits to the country and do not have the potential to do things that can endanger the country are allowed to enter and carry out activities in the territory of Indonesia.

In addition, it is also stipulated that every foreigner who wants to enter and carry out activities in Indonesia is required to take care of and have an immigration license in accordance with the purpose and purpose of his/her arrival to Indonesia. For foreigners who harm and violate the provisions of laws and regulations in force in Indonesia, it is necessary to provide strict actions and sanctions in accordance with the level of violations committed. The purpose and objective of action against foreigners who commit immigration offenses is, among others, to provide a sense of deterrent and in addition to upholding State Sovereignty.[4]

Supervisory authority in the field of immigration is the authority of the Minister of Law and Human Rights delegated to the Director General, Head of Regional Office of the Ministry of Law and Human Rights, Head of Immigration Office, and Immigration Officer. Supervision by Immigration is expected to increase understanding of the definition and form of Immigration Supervision, Administration of Immigration Supervision,

Immigration Supervision Procedures, and Preparation of Materials in the context of Implementation of Immigration Supervision.

Supervision carried out by the relevant Minister and legislation does not make crimes committed by foreigners related to misuse of immigration permits and forgery of work permits do not exist, because in the implementation of many weaknesses in the field of supervision of foreigners so that these circumstances provide opportunities for misuse of immigration documents.

The Foreigner Supervisory Team is a government body or agency that conducts immigration supervision of foreigners' activities in Indonesian territory. Foreigner Supervisory Team is established based on Law Number 6 Year 2011 on Immigration and Government Regulation Number 31 Year 2013 on Implementation Regulation of Law Number 6 Year 2011 on Immigration.[5] In its implementation, the Pora Team (hereinafter abbreviated as Pora) membership includes several related institutions from the security and law enforcement elements, among others, the Immigration Office, Regional BIN, Army, Navy, Air Force, Police, and Attorney General's Office.

Local Government, including Regency or City Government and Bakesbangpol, then there are also agencies that provide recommendations for Foreigners consisting of, Manpower-Tranduk, Tourism Office, Education Office, and Ministry of Religion. It also consists of related agencies such as the Directorate General of Taxes, Customs and other agencies.

The establishment of the Pora Team is a response to increase awareness of negative access that may arise as another impact of the enactment of Presidential Regulation No. 21/2016 which exempts foreigners from visiting visas for 169 countries. This has led to an increase in the number of foreigners/foreign nationals in Indonesia.[6] With the increase in the number of foreigners coming to Indonesia, it can potentially increase the issue of immigration violations and crimes in various regions of Indonesia, so that it can have consequences for increasing immigration control. The problem in this research was how is the supervision and action against foreigners who commit violations by immigration.

RESEARCH METHOD

This research was normative legal research. The purpose of this model research is to analyze factual legal events that determine legal issues and issues of factual legal events concerning legal content and then the legal content is associated with factual law.[7] The legal material obtained will be analyzed using a qualitative analysis method, namely an analysis that departs from the norms, principles that exist as positive legal norms which are then analyzed qualitatively with the understanding that the results of the analysis will be realized in the form of descriptions not in the form of numbers.

The legal materials used are primary legal materials in the form of laws and regulations and secondary legal materials in the form of scientific books, research results, journals that have to do with the problem. Primary legal materials are: a) Law of the Republic of Indonesia Number 6 of 2011 on Immigration[8]; b) Government Regulation of the Republic of Indonesia Number 31 of 2013 concerning the Implementing Regulations of Law Number 6 of 2011 concerning Immigration; c) Minister of Law and Human Rights Regulation Number 8 of 2014 concerning Ordinary Passports and Travel Letters as Passports[9]; d) Minister of Law and Human Rights Regulation Number 50 of 2016 on Foreigner Monitoring Team[10]; e) Regulation of Minister of Law and Human Rights Number 51 of 2016 on Amendment to Regulation of Minister of Law and Human Rights

Number 24 of 2016 on Technical Procedures for Application and Granting of Visit Visa and Limited Stay Visa.[11]

FINDINGS

1. Supervision of Foreigners in Indonesia

According to H. Abdulah Sjahrif "Supervision of foreigners in Indonesia, is the presence of foreigners in Indonesia concerning their immigration permits and the activities of foreigners while in Indonesia, namely all behaviors, activities or work carried out in accordance with the permits granted to them." [12]

To monitor foreigners, the Minister of Law and Human Rights established a Foreigner Monitoring Team to carry out immigration functions called PORA Team. The task of the Pora Team is to provide advice and consideration to relevant government agencies and/or institutions, on matters relating to the supervision of foreigners/foreign nationals. Operationally, this team can conduct joint operations, either special or incidental, which are carried out in a planned manner, so that the existence of this team is expected to be able to overcome problems related to the abuse of visit visas that often occur.

The Pora Team can also conduct joint operations if they receive information related to violations of foreign nationals, previously a Pora Team meeting must be held to discuss the agenda for joint operations of the Pora Team. Then the officer who conducts the intelligence operation makes a report which is then submitted to the Pora Team Secretariat by fulfilling the elements of the reporter's name, date and time of the incident, initial data reported as suspected, a brief chronology of the incident, and if there is a photo attached. The report is then forwarded to the Pora Team Chairperson, who then holds a second Pora Team meeting to discuss the results of the intelligence operation. Then, if there is an agreement, a joint operation can be carried out. An evaluation meeting will also be held two days after the joint operation is conducted.

Foreigner Supervision in general is to supervise the entry and exit of Foreigners, their presence and activities in the territory of the Republic of Indonesia, so that legal instruments and strong institutional cooperation are needed for supervision and law enforcement that can supervise Foreigners entering Indonesian territory.

There are 2 (two) groups of Foreigners in Indonesia, namely, Foreigners who are immigrants, namely those who get permission to enter by obtaining the right to stay in Indonesia within a certain time known as foreign visa holders and Foreigners who are allowed to stay permanently in Indonesia and are required to obtain a residence permit by obtaining a Certificate of Residence (hereinafter abbreviated as SKK) known as foreign workers or domestic foreign workers.[13]

One of the requirements for foreigners / foreign nationals who want to enter Indonesian territory is to have a visa. The definition of a visa based on Article 1 number 18 of the Immigration Law on Immigration is a written statement given by an authorized official at the Representative of the Republic of Indonesia or at another place determined by the Government of the Republic of Indonesia which contains approval for foreigners to travel and is the basis for granting a Stay Permit. Visas are divided into several types, including Diplomatic Visas, Service Visas, Visit Visas and Limited Stay Visas.

Supervision of foreigners/foreign nationals who abuse visit visas is an activity carried out by the government to determine the extent of public compliance with existing laws and regulations and supervise foreigners/foreign nationals who work have used appropriate

immigration documents, especially the use of visas in carrying out their activities in Indonesian Territory.

The impact of the issuance of Presidential Regulation of the Republic of Indonesia Number 21 of 2016 concerning Visa-Free Visits for 169 countries that make foreigners flock to come to the territory of Indonesia, especially in Bali. Visa-free visit is a visit permit granted to foreigners who use visa-free visit facilities for foreigners visiting Indonesia, which is valid for 30 (thirty) days in the context of tourism, conventions, socio-cultural activities or business.[14]

As a result of the policy issued by the government, it has an impact on increasing the country's foreign exchange through the tourism sector, but on the one hand it has an impact on the occurrence of immigration crimes, misuse of documents, transnational crimes and so on. For this reason, the PORA Team must increase the role of monitoring foreigners by strengthening the roles and functions of each member.

2. Aspects of Supervision the Activities of Foreigners to National Security

The purpose of conducting supervision of foreigners / foreign nationals who abuse visit visas is to reduce the number of foreigners / foreign nationals who do not comply with existing regulations and to measure the obedience of the community and foreigners whether they comply with existing rules or not, this can be used for the future related to policy making.

Supported by Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 21 of 2018 concerning Amendments to Regulation of the Minister of Law and Human Rights Number 27 of 2014 concerning Technical Procedures for Granting, Extending, Refusing, Canceling and Expiring Visit Stay Permits, Limited Stay Permits, and Permanent Stay Permits as well as Exemptions from the Obligation to Have a Stay Permit.

The supervision system is intended so that every foreign citizen who is in Indonesia gets permission to carry out his activities while in Indonesia and the licensing process so as not to be abused considering that foreign citizens who are in the territory of Indonesia must submit and comply with applicable regulations. Then, in order to select foreigners who want to enter and travel to other countries, a Visa is needed. The term Visa is used as a technical term in the field of immigration which means a stamp or mark applied to the passport.

The Directorate General of Immigration is an agency or frontline in the implementation of government policy in the field of immigration and supervision of foreigners. This is stated in UUNo. 6 of 2011 concerning Immigration which explains that Immigration is a matter of traffic of people entering or leaving the territory of Indonesia as well as supervision in order to maintain the sovereignty of the State.³⁰ Indonesian Immigration has Tri Function Immigration which is conceptualized into 4 (Four) Immigration functions. This concept states that the Immigration system, both in terms of the culture of Immigration Law, Immigration Legal Material, Institutions, Apparatus, Immigration Legal mechanisms, Facilities and Infrastructure of Immigration Law in its operation must always contain 4 (four) Immigration functions, namely; Immigration service function, Law enforcement function, State Security function, and the function of facilitator of community welfare development.

Indonesia is a developing country that has abundant human resources and natural resources, Indonesia is also a country that has a strategic location in the field of economy and cross-border between countries. In the current development of immigration politics,

Indonesia provides visa-free visits for 169 countries. By paying attention to its potentials, Indonesia has relaxed its immigration policy. This is a political immigration policy influenced by economic factors in order to invite tourists, foreign investors and investors to fulfill the government's role as a development facilitator.

The effect of granting visa-free visits to 169 countries certainly opens up opportunities for tourists to come and visit Indonesia without having to register at the Representative of the Republic of Indonesia or pay a visa upon arrival to enter Indonesia. The flow of crossings out of and into Indonesian territory after Presidential Regulation Number 21 of 2016 concerning visa-free visits has increased dramatically. In accordance with immigration regulations, every person entering or leaving the territory of Indonesia must have a travel document, which is an official document issued by an authorized official of a country that contains the identity of the holder and is valid for travel between countries, without having a valid and valid travel document (passport), no one can be allowed to enter.

Two basic considerations underlying the formation of Presidential Regulation of the Republic of Indonesia Number 21 of 2016, namely To improve relations between the Republic of Indonesia and other countries, it is necessary to provide convenience for foreign nationals of countries, governments of special administrative regions of a country and certain entities to enter the territory of the Republic of Indonesia which is implemented in the form of exemption from the obligation to have a visit visa by taking into account the principles of reciprocity and benefits; To provide more benefits in improving the economy in general and increasing the number of foreign tourist visits in particular, it is necessary to adjust the number of countries, governments of special administrative regions of a country, and certain entities that are given exemption from the obligation to have a visit visa.[15]

From these 2 (two) bases, it can be concluded that the purpose of this regulation is to provide more benefits in improving the economy in general and increasing the number of tourist visits to Indonesia. The government expects that the granting of visa exemptions can improve the performance of the country's balance sheet from an economic perspective. By granting visa exemptions, the government sees this as one of the easiest ways to invite tourists to come to Indonesia.

Then the visa-free policy implemented by the Indonesian government is suspected of triggering many foreign workers (hereinafter abbreviated as TKA) to work illegally, especially foreign workers from China. This means that the presence of illegal foreign workers from China is a fact that the government needs to be aware of and deal with. Indonesia is a large country with a vast territory, the number of companies in Indonesia can be more than 200 thousand, therefore it is difficult to monitor illegal foreign workers. With the implementation of visa-free entry for more than 160 countries, the difficulty of monitoring will be even more pronounced.

The visa-free policy that has been implemented by the government has both positive and negative impacts on the government. One of the negative impacts is the misuse of visa-free entry by foreign nationals to work illegally in the country. The policy of expanding visa-free travel to almost 70 countries has certainly increased tourists, but people entering on behalf of tourists also have an effect. However, immigration and the police are trying to overcome and prevent the abuse of visa-free policies by foreigners/foreign nationals.

The presence of foreigners in a country can be seen from the validity of the residence permit owned by the foreigner while he/she is in that country, which can be divided into 3 (three) groups of foreigners, namely:

- 1) Foreigners who have a valid and still valid residence permit.

- 2) Foreigners who have a valid residence permit but it is no longer valid.
- 3) Foreigners who do not have a valid residence permit.

Actions against irregularities and violations in the field of immigration are divided into 2 (two) forms : a)Through Immigration Action, b)Through the judicial process, where the Immigration Officer is appointed as a Civil Servant Investigator (hereinafter abbreviated as PPNS) under the coordination of the Police Investigator.

Immigration Action is an administrative action in the field of Immigration conducted by Immigration officials in the form of:

- a. Restriction, amendment or cancellation of presence permit.
- b. Prohibition to be in a certain place or several places in the territory of Indonesia.
- c. Requirement to reside in a certain place in the territory of Indonesia.
- d. Expulsion or deportation from the territory of Indonesia or refusal to enter the territory of Indonesia.

Officials authorized to take immigration action are:

- a. Immigration Officer at the Immigration Checkpoints as far as the refusal of entry of foreigners is concerned.
- b. Head of Immigration Office (called as Kakanim), against foreigners holding immigration permit.
- c. Head of the Regional Office of the Ministry of Justice, in this case the Coordinator of Immigration Affairs/Head of Immigration Division, for foreigners holding immigration permits.
- d. Director General of Immigration in this case the Director of Immigration Supervision and Enforcement against foreigners holding immigration license.

Any foreigner subject to immigration action may file an objection to the Minister within a period of 3 (three) days from the date of receipt of the decision on immigration action.

DISCUSSIONS

Immigration Supervision and Enforcement Mechanism

Supervision of the entry and exit of people to and from the territory of Indonesia is carried out by Immigration Officers at Immigration Checkpoints. Supervision of the presence of foreigners regarding their presence or stay permit in the territory of Indonesia is given by the Immigration Officer, whether the permit is given at the Immigration Checkpoints or at the Immigration Office, this supervision is an administrative supervision with complete data located at Immigration.

Supervision of foreigners is the responsibility and authority of the Minister which is carried out by:

a. Data Collection

Data collection of foreigners is carried out by collecting data and information on every foreigner who enters or leaves the territory of the Republic of Indonesia, is in the territory of the Republic of Indonesia, conducts activities in the territory of the Republic of Indonesia.

b. Registration of Foreigners

Every foreigner who has been granted an immigration permit (stopover, visit, limited stay permit and permanent stay permit), needs to know his/her whereabouts while he/she is in the territory of Indonesia and changes that occur to him/her and his/her family. For this

purpose, every foreigner who is in the territory of Indonesia is required to register at the local Immigration Office where he/she resides. A foreigner who arrives in the Indonesian territory with a visit permit and stays in the Indonesian territory for not more than 90 (ninety) days is not subject to mandatory self-reporting, but when he/she wishes to stay beyond that time, he/she is subject to mandatory self-reporting to register himself/herself and his/her family.[4]

Every person who allows a foreigner to stay at his/her residence is obliged to report to the Indonesian National Police Office or local government official within 24 (twenty four) hours of the foreigner's arrival. Registration of foreigners is intended to:

1. The interests of the foreigner concerned, in the event of matters concerning the foreigner, such as an accident that causes the loss of data of the person concerned, then to identify the foreigner can be seen from the data of his registration at the Immigration Office, or required by the State Representative of the foreigner, can be requested from the Immigration Office that registered the foreigner.
2. For the purpose of monitoring foreigners who are in the territory of Indonesia. With the registration, Government agencies or State Representatives of foreigners who need data on foreigners who are or have been in the territory of Indonesia, can get data from the registration of foreigners.

With the registration of foreigners, the identity of a foreigner who is in the territory of Indonesia will be known, since his arrival, his immigration permit, his civil status, his family, his work either in his country or while in the territory of Indonesia, the sponsor who guarantees him in Indonesia and other necessary information about the position of the foreigner.

Foreigners subject to mandatory registration are foreigners who are in the territory of Indonesia for more than 90 (ninety) days since their arrival in the territory of Indonesia consisting of:

1. A foreigner who is granted a Visit Permit for more than 90 (ninety) days since his/her arrival or after receiving an extension of his/her Visit Permit which exceeds 90 (ninety) days.
2. Foreigners who are granted a Limited Stay Permit.
3. Foreigners who are granted Permanent Residence Permit.

Foreigner Registration is conducted by filling out a list containing name, gender, civil status, citizenship, place and date of birth, occupation, address in Indonesia, passport number and validity date, place of Immigration Check when entering the territory of Indonesia.

Any changes to the data that has been filled in the registration, must be reported to the local Immigration Office within 14 (fourteen) days. The obligation to register foreigners does not apply to foreigners and their finances who are in the territory of Indonesia in the context of diplomatic or consular duties.

c. Monitoring the Presence and Activities of Foreigners

In order to collect data and information regarding the entry and exit, presence and activities of foreigners in the territory of the Republic of Indonesia, Immigration Officer conducts immigration monitoring. In order to conduct immigration monitoring, the Immigration Officer is authorized to:

- a. Receive reports from the public or Government Agencies about any immigration violations.
- b. To visit places or relationships where information regarding the presence and activities of foreigners is suspected to be found.
- c. Checking the Travel Document or Immigration Document of foreigners.

The authorized Immigration Officer at the Head Office of the Directorate General of Immigration shall conduct an examination of the report received if there is a violation in the field of immigration either from the public, mass media or Government agencies as outlined in the Minutes of Examination.

d. Processing of Data and Information on Foreigner Activities

Each Regional Office and Immigration Office shall conduct processing and information on the entry or exit, presence and activities of foreigners in their respective regions. The results of data and information processing are reported to the Director General of Immigration, further provisions regarding the procedures for data and information processing and reporting are regulated by Ministerial Decree.

e. Coordination with Government Agencies

Supervision of the activities of foreigners will involve relevant agencies or institutions that have the task of supervising foreigners such as the Department of Labor, Department of Education and Culture and other agencies or institutions that can be done through the Foreigner Supervision Coordination Team.

Follow-up of supervision of the presence and activities of foreigners will be subject to action either through judicial proceedings or non-judicial Immigration Actions. Supervision of foreigners is carried out in the form of:

1) Administrative Supervision

Supervision is carried out by using administrative data available at the agency conducting the supervision, where there are data in the form of records and written materials collected since the foreigner applies for a visa, upon arrival at the Immigration Checkpoint, when granting immigration permits, registration and other administrative matters. From these data, it is possible to know the situation of the foreigner concerned so that if there is any deviation, the agency based on the data available to it can take action in accordance with the deviation and based on applicable regulations.

2) Coordinative Supervision

Supervision of foreigners by several agencies involved in supervision by providing input to each other in accordance with their respective fields, so that it can be determined in a coordinated manner whether there are irregularities committed by the foreigner and what actions will be taken in accordance with the fields of each related agency either alone, or jointly in accordance with applicable regulations. Each agency looks at violations or irregularities committed by the foreigner in question in its field, while other data is obtained from the coordinating agency. In accordance with the applicable regulations, coordinative supervision is carried out on a multilevel basis; at the Central level, it is led by the Minister of Justice or the Director General of Immigration, at the provincial level by the Head of the Regional Office of the Ministry of Justice or the Immigration Officer appointed by him and related agencies such as the Armed Forces Headquarters, Police Headquarters, State Intelligence Coordinating Agency, Ministry of Home Affairs, Ministry

of Foreign Affairs, Ministry of Labor and other agencies that have duties and responsibilities for the supervision of foreigners.

3) On-site Surveillance with a Field Operation

Implemented by Immigration and/or together with related agencies in a coordinative manner, where a unit or team conducts surveillance by visiting places suspected of violations or irregularities committed by foreigners, either concerning their presence or concerning their activities while in the territory of Indonesia. In order to strengthen the coordination mechanism and operation mechanism between related agencies in the supervision of foreigners, the agencies mentioned above will continue to perform their respective duties and authorities in accordance with applicable laws and regulations. The coordination is intended to maximize the effectiveness and results of supervision of foreigners.

Administrative supervision of foreigners/foreign nationals in terms of conducting immigration supervision is carried out by collecting, processing and presenting data and information. Data and information regarding Immigration services as referred to in paragraph (1) consists of Visa, Stay Permit and Immigration status. Administrative supervision for Foreigners applying for Immigration services in the form of Stay Permit, Immigration status as intended is carried out by checking the completeness of requirements, validity and verification of application documents, interviews, identification and verification of data, as well as taking biometric data of photos and fingerprints and checking the list of Prevention and Deterrence.

Administrative supervision is carried out by immigration officials and in the collection, processing, and presentation of data and information regarding the traffic of Foreigners entering or exiting the Indonesian Territory is carried out by Immigration Officials at Immigration Checkpoints or other places that function as immigration checkpoints. Administrative supervision for Foreigner entering the Indonesian Territory as referred to in Article 40 shall be conducted by way of: examining travel documents; conducting interviews; examining Visa; and examining the list of Deterrence Meanwhile, administrative supervision for Foreigner exiting the Indonesian Territory as referred to in Article 40 shall be conducted by way of: examining travel documents; conducting interviews; examining Stay Permit; and examining the list of Deterrence. Data and information obtained are designated as confidential data in simkim, must be accessible by government agencies or institutions related to their respective duties and functions.[16]

Field supervision The Directorate General of Immigration cooperates with other related agencies which also play a role or are related to the supervision of foreigners. In addition to coordinating with related agencies, the Directorate General of Immigration also conducts internal direct operations by visiting places where violations or irregularities by foreigners are suspected, both regarding their activities and their presence in Indonesia.

The implementation of foreigner control needs to be given top priority, starting from monitoring their presence and activities as well as routine operations. The success of foreigner surveillance is highly dependent on the success or failure of the implementation of monitoring in the field. The purpose of the supervision carried out is to support the smooth implementation of activities so as to realize the effectiveness, results and effectiveness according to the plan and in line with that, to prevent early errors in implementation.

As a follow-up to the supervision of foreigners, action is taken if there are deviations or violations committed by foreigners, both regarding their presence permit and their

activities while in the territory of Indonesia. Immigration actions that can be imposed on foreigners are as follows:

- a. Refusal to grant a visa made at the Representative of the Republic of Indonesia abroad or at another place determined by the Government of the Republic of Indonesia.
- b. Refusal of permission to enter the territory of Indonesia, even though the person concerned has a visa to enter the territory of Indonesia. A visa does not guarantee that the person concerned will automatically obtain an entry permit.
- c. Amend, limit or cancel the immigration permit he/she has. In this case, the authorized Immigration Officer may:
 - 1) Change a permanent residence permit into a limited stay permit, or a limited stay permit into a visit permit.
 - 2) Limit the validity of the immigration permit, such as a visit permit which should be valid for 3 (three) months is limited to 2 (two) months.
 - 3) Cancel the immigration permit by revoking the immigration permit, so that the person concerned has no immigration permit and must leave the territory of Indonesia.
- d. Prohibiting a foreigner from being in a certain place in Indonesia or requiring a foreigner to be in a specified place in the territory of Indonesia.
- e. Expelling or deporting a foreigner outside the territory of Indonesia.
- f. Placing foreigners in Immigration Quarantine in the event of:
 - 1) Being in the territory of Indonesia without having a valid immigration permit.
 - 2) In order to await expulsion or deportation process.
 - 3) In order to await the Minister's decision on the objection filed against the immigration action imposed on him/her.

In addition to the visa to be granted entry, the Immigration Officer is authorized to refuse to grant entry to foreigners who do not meet other requirements such as a) Does not have a valid passport and is still valid; b) Suffering from mental disorders or infectious diseases that endanger public health; c) Is found to have provided false information in obtaining a passport and or visa; d) Do not have enough money to live while in Indonesia and do not have a ticket to return to their country or to another country.

In the event of the organization or commission of immigration crime, the following process can be carried out:

- a. Any violation in the form of immigration crime can be submitted to the court through the criminal procedure law based on Law Number 8 Year 1981 on Criminal Procedure Law, in which immigration officials can act as Civil Servant Investigating Officials (hereinafter abbreviated as PPNS) which in turn through Police Investigators forwarded to the District Attorney and District Court to be decided. After the foreigner has served the decision of the District Court and is released, the foreigner is handed over to immigration for further processing in the form of immigration measures in accordance with applicable laws and regulations, in this case the Immigration Law.

- b. In certain cases, immigration may take immigration action directly without going through the judicial process with the consideration that it will be more effective to take immigration action rather than going through the judicial process which generally takes longer time, such as expulsion or deportation.

Immigration policy towards foreigners through 2 (two) prosperity approaches, namely foreigners who are allowed to enter, reside and carry out activities in the territory of Indonesia are only those that are truly beneficial to the prosperity and welfare of the Indonesian people, in addition to the security approach, namely allowing immigration permits only to those who will not endanger state security and public order.

Investigation is one of the judicial processes against a criminal offense regulated in Law Number 8 Year 1981 on Criminal Procedure. Immigration crimes are conducted in accordance with the Law of Procedure. As an investigator of immigration crimes, in addition to the Indonesian National Police as a general investigator, it is also carried out by Immigration Officials who are appointed as Civil Servant Investigators (PPNS). Immigration Civil Servant Investigators are only authorized to investigate immigration crimes. Government Regulation No. 31 Year 1994 states that immigration action is determined by a written decision by the authorized immigration officer and this decision is delivered to the foreigner subject to the immigration action no later than 7 (seven) days from the date of determination.

Immigration Quarantine is a temporary shelter for foreigners subject to expulsion or deportation proceedings or other immigration actions. As a temporary shelter, the Immigration Quarantine is not a detention house as stipulated in the Criminal Procedure Code (hereinafter abbreviated as KUHAP), and is under the Immigration Office, while its management is similar to the management of state detention centers (Rutan), where residents are treated while in the Immigration Quarantine.[17]

Foreigners placed in Immigration Quarantine who are in the process of expulsion or repatriation to their home country or to another country are a) Foreigners who are subject to immigration measures either after serving the sentence in accordance with the decision of the District Court or without the decision of the District Court; b) Foreigners who are denied entry permit, who will be brought back by the conveyance that brought them to Indonesian territory. This is possible, because the means of transportation that will bring back to the country of origin or another country, in a short time can not carry it out.

CONCLUSION

Supervision of the presence of foreigners regarding their presence or stay permit in the territory of Indonesia is granted by the Immigration Officer, whether the permit is granted at the Immigration Checkpoints or at the Immigration Office. Supervision of foreigners is carried out in the form of Administrative Supervision, Coordinative Supervision and On-site Supervision with One Field Operation.

If there are irregularities or violations committed by foreigners, both concerning their presence permit and their activities while in the territory of Indonesia, Immigration actions that can be imposed on foreigners are a) Refusal to grant a visa made at the Representative of the Republic of Indonesia abroad or at another place determined by the Government of the Republic of Indonesia; b) Refusal of permission to enter the territory of Indonesia, even though the person concerned has a visa to enter the territory of Indonesia. A visa does not guarantee that the person concerned will automatically obtain an entry permit; c) Amend, limit or cancel the immigration permit he/she holds; d) Prohibit a foreigner from being in a

certain place in Indonesia or require a foreigner to be in a specified place in the territory of Indonesia; e)Expelling or deporting a foreigner outside the territory of Indonesia; f)Placing foreigners in Immigration Quarantine.

In the event of a criminal offense, immigration may conduct immigration enforcement process i.e. submitted to the court through the process of criminal procedure law and after the foreigner undergoes the verdict of the District Court and released, then the foreigner is submitted to immigration for further processing in the form of immigration action in accordance with the laws and regulations. In certain cases, immigration may take immigration action directly without going through the judicial process with the consideration that it will be more effective to take immigration action rather than going through the judicial process which generally takes longer time, such as expulsion or deportation.

REFERENCES

- [1] Salazar NB. Labour migration and tourism mobilities: Time to bring sustainability into the debate. Vol. 24, Tourism Geographies. 2022.
- [2] Bandonno A, Bastari A, Suharyo OS. The Education Perspective of Indonesia Maritime Geopolitics In the Indian Ocean. Int J Progress Sci Technol (IJPSAT). 2021;27(1).
- [3] Setiawati. Penegakan Hukum Terhadap Warga Negara Asing (WNA) yang melanggar Izin Tinggal (Overstay). Pandecta. 2015;10(1).
- [4] Mulyawan B, Halawa SY, Winata RKF. THE BALANCE OF IMPLEMENTATION BETWEEN PROJUSTITIA AND IMMIGRATION ADMINISTRATION ACTION. J Ilm Kaji Keimigrasian. 2018;1(2).
- [5] Indonesia R of. Government Regulation of the Republic of Indonesia Number 31 of 2013 concerning the Implementing Regulations of Law Number 6 of 2011 concerning Immigration. 2013.
- [6] Jazim H, Christian C. Hukum Keimigrasian Bagi Orang Asing di Indonesia. Jakarta: Sinar Grafika; 2015.
- [7] Putra Sugiantara IKCKB, Sugiarta ING, Widiati IAP. Sanksi Pidana Terhadap Pelaku Pemalsuan Surat Rapid Test di Masa Pandemi Covid- 19. J Prefer Huk. 2021;2(3).
- [8] Indonesia R of. Law of the Republic of Indonesia Number 6 of 2011 on Immigration. 2011.
- [9] Indonesia R of. Minister of Law and Human Rights Regulation Number 8 of 2014 concerning Ordinary Passports and Travel Letters as Passports. 2014.
- [10] Indonesia R of. Minister of Law and Human Rights Regulation Number 50 of 2016 on Foreigner Monitoring Team. 2016.
- [11] Indonesia R of. Regulation of Minister of Law and Human Rights Number 51 of 2016 on Amendment to Regulation of Minister of Law and Human Rights Number 24 of 2016 on Technical Procedures for Application and. Granting of Visit Visa and Limited Stay Visa. 2016.
- [12] Sjahriful A. Memperkenalkan Hukum Keimigrasian. Jakarta: Ghalia Indonesia; 1993. 57 p.

- [13] Syarif H. Pedoman Penggunaan Tenaga Kerja Asing Di Indonesia. 2016. 6 p.
- [14] Manuaba IAW. Kewenangan Kantor Imigrasi Kelas I Khusus Ngurah Rai Terhadap Warga Negara Asing yang Melanggar Izin Tinggal. *J Fak Huk Univ Udayana*. 2018;6(5):6.
- [15] Djamin A. Kepolisian RI Menghadapi Tahun 2000. Lembang: Sanyata Sumasana Wira; 2000.
- [16] Salsabiil C, Nuryani D, Herlambang H. Immigration Detention Supervision Urgency. *J Law Bord Prot*. 2019;1(1).
- [17] Sherman-Stokes S. Public Health and the Power to Exclude: Immigrant Expulsions at the Border. *SSRN Electron J*. 2021;