

Immigration Arrangements Indonesian Citizen Travel Document perspective

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Abstract

This research aims to research, analyze and examine Immigration Regulations from the perspective of Indonesian Citizen Travel Documents. Based on Law no. 6 of 2011 concerning Immigration, foreigners when traveling in Indonesia are required to have travel documents, travel documents are official letters issued by authorized officials from a country. The research method used in this research is the normative legal research method. The results of the discussion show that regulations regarding travel documents for Indonesian citizens are regulated in Law Number 6 of 2011 concerning Immigration as an umbrella rule for immigration legislation. In Article 1 number 13, number 15 and number 16 of the Immigration Law, the meaning of travel documents, the meaning of travel documents of the Republic of Indonesia and Passports of the Republic of Indonesia are given. In full it states: Article 1 number 13, namely: Travel Documents are official documents issued by authorized officials from a country, the United Nations, or other international organizations for travel between countries which contain the identity of the holder. Article 1 number 15: Travel Documents of the Republic of Indonesia are Passports of the Republic of Indonesia and Travel Documents are Like Passports of the Republic of Indonesia. Article 1 number 16: Passport of the Republic of Indonesia, hereinafter referred to as Passport, is a document issued by the Government of the Republic of Indonesia to Indonesian citizens to travel between countries which is valid for a certain period of time. The same regulation is also contained in Government Regulation Number 40 of 2023 concerning the Fourth Amendment to Government Regulation Number 31 of 2023 concerning Implementing Regulations of Law Number 6 of 2011 concerning Immigration.

Keywords: Immigration Arrangements, Travel Documents, Indonesian Citizens

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1. Introduction

The role of Immigration in implementing the security function is to select every intended arrival of people coming from abroad or foreigners through examining visa applications. Collaborating with other countries' security apparatus, especially in providing supervision regarding immigration law enforcement. Carrying out immigration intelligence operations for the interests of state security and carrying out prevention and deterrence (Jazim Hamidi & Charles Christian, 2015). In particular, checking travel documents is a task that in principle requires thoroughness in checking travel documents that include the identity data of an Indonesian citizen, which basically must be correct and in accordance with the legal provisions that apply as an Indonesian citizen.

The word immigration in this case comes from the Latin *migratio* which means the movement of people/individuals from one place to another and/or one country to another. That there is the term *emigratio* which has a different meaning, namely "the movement of people from one region or country out to another region or country." On the other hand, the term immigration in Latin means "the movement of people from one country to enter another country" (Herlin Wijayanti, 2011).

Whereas in the provisions of Article 14 paragraph 2 of Law no. 6 of 2011 concerning Immigration, states "In the event that there is doubt regarding the travel documents of an Indonesian citizen and/or his or her citizenship status, the person concerned must provide other valid and convincing evidence that shows that the person concerned is an Indonesian citizen." Furthermore, in Article 14 paragraph 3 of Law no. 6 of 2011 concerning Immigration, states "In order to complete the evidence as intended in paragraph (2), the person concerned can be placed in an Immigration Detention Center or Immigration Detention Room". Based on the provisions of Article 14 paragraphs 2 and 3, it provides a provision that an Indonesian citizen who comes from abroad, if there are doubtful things about his/her travel documents, can be placed temporarily in an Immigration Detention Center or Immigration Detention Room.

Based on the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 29 of 2015 concerning the Organization and Work Procedures of the Ministry of Law and Human Rights of the Republic of Indonesia, one of the Tri Functions of Immigration

is checking travel documents, both from the country you are leaving, the country you are visiting, and the country you are passing through. This function is to guarantee the authenticity and validity of the identity data of Indonesian citizens who own the travel document. This function is closely related to the role of Immigration to ensure domestic security. Apart from that, Immigration also plays a role in carrying out a security function, namely selecting every person from abroad or foreigners who intends to arrive by examining visa applications. Collaborating with other countries' security apparatus, especially in providing supervision regarding immigration law enforcement. Carrying out immigration intelligence operations for the interests of state security and carrying out prevention and deterrence ((Jazim Hamidi & Charles Christian, 2015).

As previously mentioned, one of the functions of Immigration is to check the authenticity and validity of travel documents of Indonesian citizens who will travel abroad or who will re-enter Indonesia. The travel document includes identity data of Indonesian citizens whose authenticity and validity are guaranteed in accordance with applicable legal provisions. In the event that the Immigration authorities doubt the validity and authenticity of the travel document, they can place the Indonesian citizen concerned in an Immigration Detention Center or Immigration Detention Room. This is fully regulated in Law Number 6 of 2011 concerning Immigration Article 14 paragraph (2): "In the event that there is doubt regarding the travel documents of an Indonesian citizen and/or his or her citizenship status, the person concerned must provide other valid and convincing evidence that shows that the person concerned is an Indonesian citizen." Furthermore, in paragraph (3) of the article: "In order to complete the evidence as intended in paragraph (2), the person concerned can be placed in an Immigration Detention Center or Immigration Detention Room."

The provisions of Article 14 paragraphs (2) and (3) result in a person being temporarily detained until the travel document is proven to be valid or there is no doubt, however, what is meant by doubt, this has a broad meaning or significance which can be interpreted freely by the officer Immigration. The phrase "In case there is doubt about the Travel Document" in Article 14 paragraph (2) contains vague norms so that there is a need for a detailed explanation of what is meant by this phrase. The ambiguity of these norms and then accompanied by free interpretation by Immigration officers will certainly give rise to legal uncertainty. The novel method offered in this research is a study related to changing the phrase Article 14 paragraph 2 in order to provide legal certainty.

The provisions of Article 14 paragraphs 2 and 3 result in a person's rights being temporarily suspended until the travel document is proven to be valid or there is no doubt, but what is meant by doubt has a broad meaning which can be interpreted by Immigration officers. . Article 14 paragraph 2 of Law no. 6 of 2011 concerning Immigration, the phrase "in case of doubt" has a vague norm so that there is a need for a detailed explanation of what is meant by "in case of doubt". That it can be said to contain a vague interpretation of a norm in this case is reinforced by the absence of a significant explanation and/or a straightforward and directed explanation to explain the meaning "in case of doubt". The meaning of the phrase "in case of doubt" can give rise to vague norms which result in legal uncertainty regarding the regulation of Article 14 paragraph 2 of Law no. 6 of 2011 concerning Immigration.

2. Problem Research & Methode Research

The formulation of the problem in this research is how to regulate immigration from the perspective of travel documents for Indonesian citizens. The research uses normative legal research methods (normative legal research) using the object of study in the form of positive legal norms (Benuf, Kornelius, and Muhamad Azhar, 2020). For the research approach, an approach is taken to statutory regulations by conducting a study of regulations related to the research topic being discussed. In this research, primary legal materials and secondary legal materials were used. The primary legal materials include related laws and regulations, while for secondary legal materials, the author uses scientific journals, theses and several legal books.

3. Analysis and Discussion

Indonesian citizens who have travel documents when arriving from abroad are obliged by law to show these documents to Immigration officers when arriving in Indonesia. Travel documents that include the identity data of an Indonesian citizen must basically be correct and in accordance with the legal provisions that apply as an Indonesian citizen.

Supervision of foreigners is not only carried out when they enter, but also while they are in Indonesian territory, including their activities. Immigration supervision includes enforcement of immigration law, both administrative and immigration criminal acts. Therefore, in the context of immigration, carrying out duties and authorities specifically based on the provisions of Law no. 6 of 2011 concerning Immigration.

Law enforcement is a process that makes a "legal desire" become a reality, in this case what is called "legal desire" are the thoughts of a body of law makers which are basically formulated in

regulations. law (Satjipto Rahardjo, 2009). The factors that influence law enforcement are firstly Legal Factors, secondly Facts, thirdly Law Enforcement, fourthly Supporting Facilities or Facilities Factors, and fifthly Cultural Factors (Soerjono Soekanto, 2008).

A state based on law is characterized by several elements, including that all acts or actions of the government or state must be based on legal provisions that existed before the act or action was carried out (Sugiyanto & Bambang Giyanto, 2012). The rule of law in this case is the existence of a product of statutory regulations as a legal basis for governing the nation and state. In the context of the issuance of Law no. 6 of 2011 concerning Immigration is the legal basis for immigration in Indonesia. The role of Immigration in implementing the security function is to select every intended arrival of people coming from abroad or foreigners through examining visa applications. Collaborating with other countries' security apparatus, especially in providing supervision regarding immigration law enforcement. Carrying out immigration intelligence operations for the interests of state security and carrying out prevention and deterrence (Jazim Hamidi & Charles Christian, 2015). In particular, checking travel documents is a task that in principle requires thoroughness in checking travel documents that include the identity data of an Indonesian citizen, which basically must be correct and in accordance with the legal provisions that apply as an Indonesian citizen.

Regulations regarding travel documents for Indonesian citizens are regulated in Law Number 6 of 2011 concerning Immigration as an umbrella rule in immigration law. In Article 1 number 13, number 15 and number 16 of the Immigration Law, the meaning of travel documents, the meaning of travel documents of the Republic of Indonesia and Passports of the Republic of Indonesia are given. In full it states: Article 1 number 13, namely: Travel Documents are official documents issued by authorized officials from a country, the United Nations, or other international organizations for travel between countries which contain the identity of the holder. Article 1 number 15: Travel Documents of the Republic of Indonesia are Passports of the Republic of Indonesia and Travel Documents are Like Passports of the Republic of Indonesia. Article 1 number 16: Passport of the Republic of Indonesia, hereinafter referred to as Passport, is a document issued by the Government of the Republic of Indonesia to Indonesian citizens to travel between countries which is valid for a certain period of time. The same regulation is also contained in Government Regulation Number 40 of 2023 concerning the Fourth Amendment to Government Regulation Number 31 of 2023 concerning Implementing Regulations of Law Number 6 of 2011 concerning

Immigration.

More specific regulations regarding Indonesian Citizen Travel Documents are contained in Article 14 of the Immigration Law which states: Every Indonesian citizen cannot be refused entry into Indonesian Territory. 1). In the event that there is doubt regarding the Travel Documents of an Indonesian citizen and/or his or her citizenship status, the person concerned must provide other valid and convincing evidence that shows that the person concerned is an Indonesian citizen. 2). In order to complete the evidence as intended in paragraph (2), the person concerned can be placed in an Immigration Detention Center or Immigration Detention Room.

There is no further explanation regarding Article 14. That the law is the most important institution in implementing social control and/or social engineering. Pound also admitted that another function of law is as a means of carrying out social engineering. He said that the legal system achieves the goal of legal order. The law has determined certain patterns of behavior, so everyone should behave according to these predetermined patterns. Gustav Radbruch is of the view that law must contain 3 (three) identity values, namely the principle of legal justice (*gerechtigheid*), and the principle of legal usefulness (*zwechttigheid*), the principle of legal certainty (*rechtmatigheid*) (Bernard L. Tanya, 2010). Regarding legal certainty, in this case Article 14 paragraph 2 of Law no. 6 of 2011 concerning Immigration, does not provide legal certainty, the phrase "in case of doubt" has a vague norm so that there is a need for a detailed explanation of what is meant by "in case of doubt". That it can be said to contain a vague interpretation of a norm in this case is reinforced by the absence of a significant explanation and/or a straightforward and directed explanation to explain the meaning "in case of doubt". The meaning of the phrase "in case of doubt" can give rise to vague norms which result in legal uncertainty regarding the regulation of Article 14 paragraph 2 of Law no. 6 of 2011 concerning Immigration.

The meaning of legal certainty of the phrase "in case of doubt" on the travel documents of Indonesian citizens.

Countries are sovereign to make regulations or laws within their territorial jurisdiction, respecting the principle of sovereignty, each country must respect the policies, regulations and laws made by a country (Junior Perdana Sande, 2021). Based on Law no. 6 of 2011 concerning

Immigration states that foreign citizens upon arrival are required to have travel documents (Ida Bagus Surya Dharma Jaya, 2019).

That formulating standard clauses does not use sentences that contain elements of disclaimer of responsibility (Sari, Putu Dina MR, 2019), from the description of the narrative, this means that the aim is to ensure that something certain and concrete is needed in a clause. The importance of applying the element of novelty in this case is related to changing an article in a regulation so that this novelty avoids the blurring of norms. Article 14 paragraph 2 of Law no. 6 of 2011 concerning Immigration, the phrase "in case of doubt" has a vague norm so that there is a need for a detailed explanation of what is meant by "in case of doubt".

Legal certainty is a question that can only be answered normatively, not sociologically. Normative legal certainty is when a regulation is created and promulgated with certainty because it regulates clearly and logically. Clear in the sense that it does not give rise to doubt (multiple interpretations) and logical in the sense that it forms a system of norms with other norms so that it does not clash or give rise to norm conflicts. Norm conflict arising from regulatory uncertainty can take the form of norm contestation, norm reduction or norm distortion. Furthermore, legal certainty is a matter (circumstances) that are certain, provisions or provisions. Laws must essentially be certain and fair. It must be a guide to behavior and is fair because the code of behavior must support an order that is considered reasonable. Only because it is fair and implemented with certainty can the law carry out its function. Legal certainty is a question that can only be answered normatively, not sociologically (Dominikus Rato, 2010).

The phrase "In case of doubt" in Article 14 paragraph (2) of the Immigration Law has no further explanation in the explanation of the law. The meaning of this phrase is also not explained in the statutory regulations under the Immigration Law. The phrase "In case of doubt" in Article 14 paragraph (2) of the Immigration Law must be interpreted as one complete sentence, meaning that the doubt can be resolved if the Indonesian citizen is able to provide other valid and convincing evidence that can show that the person concerned is an Indonesian citizen. .

Therefore, a travel document must be interpreted as a Republic of Indonesia Passport, as intended in Article 1 number 15, so the regulations are contained in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 8 of 2014 concerning Ordinary Passports and Travel Documents Like Passports.

The phrase "In case of doubt" in Article 14 paragraph (2) of the Immigration Law has no further explanation in the explanation of the law. The meaning of this phrase is also not explained in the statutory regulations under the Immigration Law. The phrase "In case of doubt" in Article 14 paragraph (2) of the Immigration Law must be interpreted as one complete sentence, meaning that the doubt can be resolved if the Indonesian citizen is able to provide other valid and convincing evidence that can show that the person concerned is an Indonesian citizen. . The next requirement is that the birth certificate, marriage certificate or marriage certificate, diploma or baptism certificate must be accompanied by the name, date of birth, place of birth and the names of the parents.

4. Conclusion

Regulations regarding travel documents for Indonesian citizens are regulated in Law Number 6 of 2011 concerning Immigration as an umbrella rule in immigration law. In Article 1 number 13, number 15 and number 16 of the Immigration Law, the meaning of travel documents, the meaning of travel documents of the Republic of Indonesia and Passports of the Republic of Indonesia are given. In full it states: Article 1 number 13, namely: Travel Documents are official documents issued by authorized officials from a country, the United Nations, or other international organizations for travel between countries which contain the identity of the holder. Article 1 number 15: Travel Documents of the Republic of Indonesia are Passports of the Republic of Indonesia and Travel Documents are Like Passports of the Republic of Indonesia. Article 1 number 16: Passport of the Republic of Indonesia, hereinafter referred to as Passport, is a document issued by the Government of the Republic of Indonesia to Indonesian citizens to travel between countries which is valid for a certain period of time. The same regulation is also contained in Government Regulation Number 40 of 2023 concerning the Fourth Amendment to Government Regulation Number 31 of 2023 concerning Implementing Regulations of Law Number 6 of 2011 concerning Immigration.

The phrase "In case of doubt" in Article 14 paragraph (2) of the Immigration Law contains vague norms because there is no explanation regarding this matter. The phrase "In case of doubt" must be interpreted as one complete sentence, meaning that the doubt can be resolved if the Indonesian citizen is able to provide other valid and convincing evidence that can show that the person concerned is an Indonesian citizen. Therefore, a travel document must be interpreted as a

Republic of Indonesia Passport, as intended in Article 1 point 15, so the regulations are contained in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 8 of 2014 concerning Ordinary Passports and Travel Documents Like Passports. The Regulation of the Minister of Law and Human Rights regulates the conditions for obtaining a Republic of Indonesia Passport. These conditions can be interpreted as other valid and convincing evidence that can show that the person concerned is an Indonesian citizen.

Reference

Book :

- Bernard L. Tanya, *Teori Hukum Strategi Tertib Manusia Lintas Ruang dan Generasi*, (Yogyakarta, Genta Publishing, 2010)
- Dominikus Rato, *Filsafat Hukum Mencari: Memahami dan Memahami Hukum*, (Yogyakarta, Laksbang Pressindo, 2010)
- Herlin Wijayanti, *Hukum Kewarganegaraan dan KeKeimigrasianan*, (Malang, Bayumedia Publishing, 2011)
- Jazim Hamidi, dkk, *Hukum KeKeimigrasianan Bagi Orang Asing di Indonesia*, (Jakarta, Sinar Grafika, 2015)
- Satjipto Rahardjo, *Masalah Penegakan Hukum Suatu Tinjauan Sosiologis*, (Bandung, Sinar Baru, 2009)
- Soerjono Soekanto, *Faktor-Faktor Yang Mempengaruhi Penegakan Hukum* (Jakarta, Raja Grafindo Persada, 2008)
- Sugiyanto dan Bambang Giyanto, *Hukum Administrasi Negara* (Jakarta, Lembaga Administrasi Negara, 2021)

Journal :

- Benuf, Kornelius, and Muhamad Azhar. "Metodologi penelitian hukum sebagai instrumen mengurai permasalahan hukum kontemporer." *Gema Keadilan* 7, no. 1 (2020): 20-33
- Ida Bagus Surya Dharma Jaya. "Penegakan hukum terhadap warga negara asing yang melakukan tindak pidana pemalsuan dokumen perjalanan (studi di kantor Keimigrasian kelas i khusus ngurah rai)." *Jurnal Kertha Wicara*, vol 8 no. 1 (2019):12
- Junior Perdana Sande. "Aspek Human Security dalam Pembatasan Masuknya Orang Asing ke Indonesia karena Pandemi Covid-19." *Indonesian Perspective*, Vol. 6, No. 2 (2021): 142-165.
- Mega Bintang Ninage, Amalia Diamantina. "Pencegah Penyalahgunaan Izin Tinggal Kunjungan Warga Negara Asing Oleh Kantor Keimigrasian Semarang". *Jurnal Pembangunan Hukum Indonesia*, Vol 4, No 2 (2022): 197-212.
- Razak, Muhammad Hendra, Riyanto Riyanto, and Andi Sunandi. "Penerapan Unsur Kebaruan (Novelty) Berdasarkan Undang-Undang Nomor 31 Tahun 2000 Tentang Desain Industri." *Jurnal Hukum Pelita* 2, no. 2 (2021): 30-44.

Sari, Putu Dina MR, Putu Dina Marta, and I. Made Dedy Priyanto. "Perlindungan Hukum Kepada Konsumen Terhadap Penggunaan Klausula Baku Yang Tercatum Pada Toko Online." *Kertha Semaya: Journal Ilmu Hukum* Vol 7 (2019): 1-13.

William D.C. Hahamu. "Izin Tinggal Kunjungan Bagi Warga Negara Asing Menurut Undang Undang Nomor 6 Tahun 2011 tentang KeKeimigrasian". *Lex Et Societatis*, vol. 7, no.3 (2019):.119-127. <https://doi.org/10.35796/les.v7i3.24684>

Internet :

<http://yancearizona.net/2008/04/13/apa-itu-kepastian-hukum/> Diakses pada tanggal 2 November 2023, Pukul 23:07 wita

Legislation :

Undang-Undang Nomor 6 Tahun 2011 Tentang Keimigrasian

Peraturan Pemerintah Nomor 40 Tahun 2023 tentang Perubahan Keempat Atas Peraturan Pemerintah Nomor 31 Tahun 2023 Tentang Peraturan Pelaksanaan Undang-Undang Nomor 6 Tahun 2011 Tentang Keimigrasian

Peraturan Menteri Hukum dan HAM RI Nomor 8 Tahun 2014 tentang Paspor Biasa dan Surat Perjalanan Laksana Paspor