

## Supervision of Stay Permits for Foreign Citizens in the Legal Area of the TPI Gorontalo Class I Immigration Office

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### Abstract

*The authority to take immigration action regarding the expiration of a limited stay permit based on Article 53 of Law Number 6 of 2011 concerning Immigration in the Gorontalo City immigration area is the responsibility of the TPI Gorontalo Class I Immigration Office. The problem in this research is how to monitor and take action against foreign nationals who violate their residence permit (overstay) at the TPI Gorontalo Class I Immigration Office. The research method uses a normative and empirical juridical approach, the data used is secondary data and primary data. The study was carried out using literature and field studies, the data analysis used was qualitative. The results of the research show that the implementation of supervision and action against foreign nationals who violate residence permits (overstay) at the TPI Gorontalo Class I Immigration Office, enforcement of immigration law, especially regarding the issue of misuse of visas, the immigration authorities should apply cumulative criminal sanctions against perpetrators of criminal acts, namely the imposition of prison sentences. In accordance with the applicable provisions of the Immigration Law, after the perpetrator of a criminal offense has served his criminal sentence, the next action taken by the immigration authorities is to carry out administrative immigration action, namely deporting the foreign national.*

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## 1. INTRODUCTION

Geographically, the location of the Republic of Indonesia is very strategic, namely it is located on the equator and is spread between two oceans, the Pacific Ocean and the Indonesian Ocean and is flanked by the continents of Asia and Australia. This situation makes Indonesia a destination for visits by foreigners. Its geographical location is a crossroads for international trade traffic. In addition, its abundant natural wealth has made Indonesia a focus of attention for other countries in the political, socio-economic and security fields by taking advantage of technological advances in the transportation sector.

Today's global developments encourage increased mobility of the world's population, which gives rise to various impacts, both beneficial and detrimental, to the interests and life of the nation and state of the Republic of Indonesia, so that it is necessary to regulate laws and regulations that guarantee legal certainty in line with respecting, protecting and promoting human rights. The impact of globalization has affected the economic system of the Republic of Indonesia and to anticipate this, changes to legal regulations are needed in the fields of economics, industry, trade, transportation, employment and regulations in the field of traffic of people and goods. These changes are needed in order to further increase the intensity of relations between the Republic of Indonesia and the international world, which has a huge impact on the implementation of immigration functions and duties.

Many foreigners want to visit Indonesia because they remember that Indonesia's territory is very strategic in international life, because it is traversed by international traffic

intersections both on land, air and sea. Apart from that, other influences from Indonesia's geographical location touch on culture and the many beautiful, interesting and historical places that can be visited by foreign tourists. Indonesia's natural beauty is also an attraction for foreign tourists to visit Indonesia, however, with the large number of foreign tourists coming to Indonesia, quite a few foreigners are committing violations in Indonesia.

Foreigners who wish to enter and reside in Indonesia are regulated by laws regarding entry and exit from Indonesian territory, travel documents of the Republic of Indonesia, visas, entry certificates and residence permits, immigration supervision, immigration administrative actions and investigations. With the large number of foreigners entering Indonesian territory, the task of immigration arises in terms of monitoring and taking action against foreigners who are in Indonesia in order to reduce the potential for immigration crimes that occur in the future.

Some of these provisions can no longer be implemented in their implementation because current global developments are encouraging increased mobility of the world's population which causes various impacts, both beneficial and detrimental to the interests and life of the Indonesian nation and state, so that new immigration legislation is needed which is an embodiment law enforcement and sovereignty over the territory of Indonesia with various new immigration problems, therefore on May 5 2011 the Law of the Republic of Indonesia Number 6 of 2011 concerning Immigration was promulgated, replacing Law of the Republic of Indonesia Number 9 of 1992 concerning Immigration.

Article 48 paragraph 1 explains that every foreigner residing in Indonesian territory is required to have a residence permit. And article 48 paragraph 5 contains it. For foreigners who are undergoing detention for the purposes of the investigation, prosecution and examination process in court or undergoing imprisonment or imprisonment in a correctional institution, while their residence permit has expired, the foreigner is not subject to any obligations. as intended in paragraph (1).

Meanwhile, in Law No. 6 of 2011 concerning immigration, Article 66 explains supervision. Article 66 paragraph 2 immigration control includes:

- a. supervision of Indonesian citizens who apply for travel documents, leaving or entering the Indonesian Territory, and those outside the Indonesian Territory;
- b. supervision of the movement of foreigners entering or leaving Indonesian territory as well as supervision of the presence and activities of foreigners in Indonesian territory.

In article 67 paragraph 1, Immigration control of Indonesian citizens is carried out when requesting Travel Documents, leaving or entering, or being outside the Indonesian Territory, by:

- a. collection, processing and presentation of data and information.
- b. preparation of a list of names of Indonesian citizens who are subject to prevention from leaving Indonesian territory.
- c. monitoring every Indonesian citizen who applies for Travel Documents, leaving or entering Indonesian Territory, and who is outside Indonesian Territory.
- d. taking photos and fingerprints.

As well as in article 68 Immigration Control of Foreigners is carried out at the time of Visa application, entry or exit, and the granting of a Stay Permit is carried out by:

- a. collection, processing and presentation of data and information;
- b. preparation of a list of names of Foreigners subject to Deterrence or Prevention;
- c. supervision of the presence and activities of Foreigners in Indonesian Territory;
- d. taking photos and fingerprints;
- and. other activities that can be legally accounted for.

Immigration administrative actions against foreign nationals are regulated in articles 75 to article 80. The contents of article 75 relate to immigration administrative sanctions,

namely that Immigration Officials have the authority to carry out immigration administrative actions against foreigners residing in Indonesian territory who carry out dangerous activities and are reasonably suspected of being dangerous. security and public order or not respecting or disobeying laws and regulations.

Article 78 paragraph (1) of the Immigration Law states that foreigners holding a residence permit whose validity period has expired and are still in Indonesian Territory for less than 60 (sixty) days from the time limit for their residence permit are subject to a fee in accordance with the provisions of statutory regulations. Administrative action in the form of deportation is carried out in accordance with Article 78 paragraphs (2) and (3), namely if the foreigner cannot pay the fees and the foreigner holds a residence permit whose validity period has expired and is still in Indonesian territory for more than 60 (sixty) days. From the time limit on the residence permit, administrative action will be taken in the form of deportation and detention.

Foreign nationals who wish to enter Indonesian territory must first obtain an entry permit. An entry permit is a permit printed on a visa or travel letter for foreigners who wish to enter Indonesian territory, which is given by immigration officials at immigration checkpoints. The validity period of the entry permit is adjusted to the type of visa you have. After obtaining the entry permit you will then receive a residence permit which also corresponds to the type of visa. In order to realize the principle of selective policy, supervision of foreigners is required.

Based on Law Number 6 of 2011 concerning Immigration, apart from being regulated by criminal provisions, Immigration Actions which are non-judicial in nature or place greater emphasis on the administrative aspect, likewise, supervision of foreigners can be carried out administratively, namely supervision carried out through examination of documents. letters or documents, in the form of recording, collecting data and presenting and disseminating information manually and electronically about the traffic, whereabouts and activities of foreigners. This activity is field supervision, namely supervision carried out in the form of monitoring, patrols, raids by collecting information, searching for people and evidence related to immigration crimes.

Thus, the important role of the immigration aspect in the order of state life will be seen in the regulation of the entry or exit of people from and into Indonesian territory, and the granting of residence permits and supervision of foreigners while they are in Indonesian territory. Misuse of a residence permit is a legal event that often occurs in immigration law. Residence permits given to foreigners to stay in Indonesian territory are often misused by the permit holders, resulting in many cases of misuse of residence permits. A residence permit is a permit given to foreigners to reside in Indonesian territory. A residence permit is very important, because without a residence permit any foreigner cannot be in Indonesian territory. A stay permit is granted by an Immigration Officer or Foreign Service Officer in accordance with the visa that has been granted and is regulated in immigration law.

Immigration Supervision is a series of activities carried out to collect, process and present information and data on immigration of Indonesian citizens and foreigners in order to ensure compliance with the provisions of laws and regulations in the Immigration sector.

Government Regulation Number 40 of 2023 concerning the Fourth Amendment to Government Regulation Number 31 of 2013 concerning Implementing Regulations of Law Number 6 of 2011 concerning Immigration.

Regulation of the Minister of Law and Human Rights of the Republic of Indonesia (Permenkumham RI) Number 22 of 2023 concerning Visas and Stay Permits which targets all foreign companies that use foreign workers (TKA). Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 22 of 2023 concerning Visas and Stay Permits is classified as a new regulation, so it needs to be socialized, so that in the

future, foreign worker (TKA) users understand the provisions in the new immigration regulations.

**Table 1. Data on foreigner cases at the TPI Gorontalo class I Immigration Office**

Year	Country	Amount	Information
2022	Philippines	1	Detention Transfer
	Malaysia	2	Deportation
2023	Vietnam	3	Detention Transfer
2024	India	1	Deportation
	Philippines	1	Deportation
	Sri Lanka	4	Deportation

Based on cases that occurred in 2022, 3 foreign nationals who misused their residence permits, 1 Filipino foreigner was transferred to detention from the TPI Gorontalo Class I Immigration office to the RUDENIM Manado Immigration Detention Center, North Sulawesi and 2 Malaysian foreigners were deported. In 2023 and 2024, misuse of residence permits was carried out by foreigners from Vietnam, the Philippines, India and Sri Lanka who were deported by the TPI Gorontalo Class I Immigration Office and carried out administrative action in the form of being sent back to their respective countries.

## 2. RESEARCH METHOD

This type of research is Normative-Empirical Legal Research (applied law research), namely research that uses normative-empirical legal case studies in the form of legal behavioral products, for example examining the implementation of credit agreements. The main point of the study is the factual implementation or implementation of positive legal provisions and contracts in every specific legal event that occurs in society in order to achieve predetermined goals.

## 3. RESEARCH RESULTS AND DISCUSSION

The immigration agency is one of the directorates under the Ministry of Law and Human Rights which has quite an important role in maintaining sovereignty in Indonesian territory. Apart from this task, Immigration also has an equally important role in filtering foreigners who are considered to be endangering national and state order, who will enter Indonesian territory. Immigration agencies are located at the center and in regions throughout Indonesia, starting from directorates, regional offices, immigration checkpoints. According to the decree of the Minister of Justice of the Republic of Indonesia Number: M.03 PR 07.04 of 1991 dated January 15 1991 concerning the working procedures of the Immigration office, it is stated that one of the functions of immigration is to carry out immigration duties in the field of immigration supervision and enforcement.

Referring to the Immigration Law, the authority of Immigration Officials is regulated in article 75 which contains the authority to take administrative action and article 105 concerning the authority of Immigration Civil Servant Investigators. If these authorities cannot be exercised by immigration officers, it will cause obstacles in the main duties of immigration. At the Immigration Office there is a supervision and enforcement section (WASDAKIM) which carries out the function of supervising foreign citizens (WNA) who enter the territory of the Republic of Indonesia and Indonesian citizens (WNI) who will travel abroad as well as establishing cooperation between existing agencies. in relation to

the field of immigration supervision and enforcement based on applicable laws and regulations.

Law Number 6 of 2011 concerning Immigration replaces the old Law Number 9 of 1992 concerning Immigration which was deemed no longer able to keep up with current developments due to the increase in international crime, such as illegal immigrants, human smuggling, human trafficking, terrorism, narcotics and money laundering. The Immigration Law is the basis for immigration law enforcement. It is felt that enforcement of immigration law, especially the issue of visa misuse, has not been optimal. The criminal law enforcement process, including law enforcement against immigration crimes, through a system consisting of four process stages, namely the investigation stage, prosecution stage, punishment stage and implementation/execution stage, is felt to be not optimal, especially in the investigation stage.

Immigration Law Number 6 of 2011 concerning Immigration, immigration investigators include, namely:

a. Investigator's authority

The provisions of Article 105 of Law Number 6 of 2011 concerning Immigration and its explanation, are the basis for immigration investigators in carrying out investigations into immigration crimes which are general crimes.

b. The investigation process includes:

1. Immigration Investigation

Carry out a series of activities to look for suspects, witnesses, clues and letters which are evidence as a continuation of immigration reports or incidents which are public reports or which immigration investigators know directly that an immigration crime has occurred.

2. Enforcement

Includes a series of summoning activities, orders to bring suspects, arrest, detention, search, confiscation, photographing and taking fingerprints accompanied by an investigation warrant, task order and making an official report.

3. Settlement and submission of case files

When the investigation has finished, the investigator is obliged to immediately submit the case files to the public prosecutor, which is the first stage of submission, namely only the case files.

By paying attention to the scope of authority above, it cannot be denied that the investigation process is not actually a simple process, therefore not every institution can carry it out. Moreover, it is only carried out by institutions whose main task is not actually as an investigator because it is feared that it could lead to procedural errors that could potentially lead to violations of someone's human rights. The involvement of PPNS in investigating certain criminal acts is actually an effort to overcome the obstacle of delays in carrying out the investigation process if a certain criminal act occurs. However, at the tactical and technical level of the investigation, control remains with the National Police as the main investigator.

Cases of misuse of residence permits by foreign citizens have not decreased, in fact they have increased. Even though the immigration authorities always make various efforts to handle these cases so that abuse cases do not increase or can even be stopped. The steps taken by the immigration authorities to handle cases of misuse of residence permits have the aim of maintaining good relations between countries so that no party feels disadvantaged by other countries, both economically and in terms of state security.

There are four measures carried out by the Immigration Department to handle cases of misuse of residence permits, namely:

a. Administrative Action

Referring to article 75 paragraph 1 of Law No. 6 of 2011, in cases of misuse of residence permits by foreign citizens, Immigration Officials have the authority to carry out Immigration Administrative Actions against Foreigners residing in Indonesian Territory who carry out dangerous activities and are reasonably suspected of being dangerous. security and public order or disrespect or

not complying with statutory regulations. Immigration Administrative Actions are administrative sanctions carried out by immigration authorities against foreign citizens outside the judicial process. The Immigration Administrative Actions are:

1. Inclusion in the Prevention or Deterrence list;
2. Restrictions, changes or cancellation of Residence Permits;
3. Prohibition from being in one or several certain places in Indonesian Territory;
4. Requirement to reside in a certain place in the Indonesian Territory;
5. Imposition of burden fees; and/or
6. Deportation from Indonesian Territory. Deportation is an act of forcibly removing foreign nationals from Indonesian territory.

Thus, six alternative administrative actions as mentioned above can be carried out by the Immigration authorities against foreign nationals who do not heed the regulations governing the presence of foreign nationals in Indonesian territory.

b. Detention Action

This action is a detention carried out by immigration authorities against foreign nationals who commit violations or abuse. Based on article 1 paragraph 33, it is explained that the detention is carried out at the Immigration Detention Center which is a temporary shelter for foreign citizens who are subject to deportation or repatriation to their country and other immigration measures.

c. Pro justice action

This action is a judicial action carried out by the immigration authorities against foreign citizens who have committed violations or abuses while in Indonesian territory.

In the current era, supervision carried out by immigration authorities on foreign citizens is more systematic. This is related to the current of globalization which of course makes it very easy for immigration authorities to carry out supervision. This surveillance uses or utilizes technology in the Foreigner Reporting application as a means of monitoring the whereabouts of foreigners. With this application, immigration authorities receive up to date information about the whereabouts of foreign nationals in Indonesian territory.

Apart from that, supervision of foreign citizens is also divided into four processes, namely when applying for a visa or residence permit, entering or leaving Indonesian territory, while in Indonesian territory, and carrying out activities in Indonesian territory. Increased supervision will certainly reduce or even prevent misuse of residence permits by foreign citizens. In this way, the territory of Indonesia will maintain its security and sovereignty.

#### 4. CONCLUSION

Immigration law enforcement, especially regarding the issue of misuse of visas, the immigration authorities should apply cumulative criminal sanctions against perpetrators of criminal acts, namely the imposition of imprisonment in accordance with the provisions of the applicable Immigration Law. After the perpetrators of criminal acts have served their sentences criminally, the next action taken by the immigration authorities is to take action. Administratively, immigration is the deportation of the foreign citizens.

Some immigration problems carried out by foreign nationals are very disturbing and can even threaten the sovereignty of the country. For example, visiting residence permits are misused for work, business, education, and even to commit crimes such as drug smuggling and terrorism. The immigration authorities provide several actions in accordance with applicable laws. ban on being in certain areas, and even deportation. Apart from that, the immigration authorities have made efforts to prevent this case from happening again by means of outreach, supervision and monitoring using applications. This case has had various impacts, especially for Indonesia.

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