

Role of Residence Permit Section and Immigration Status in the Management of Extended Visitation Residence Permit

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ABSTRACT

Era of globalization that is increasingly has a significant influence on the mobility of the population. For example, people travel to various places in the world, among others, for travel, work, and school. The mobility of the community certainly cannot happen without the permission of the country to be visited. Everyone has the right to obtain services and must comply with managing residence permits in a country. The role of the Section on Residence Permits and Immigration Status in the management of the extension of The Residence Permit for Foreign Nationals has an essential role in the process and receive the files submitted by the applicant or guarantor. The counter officer accepts the application for renewal after the file submitted by the applicant has been fulfilled by the applicable provisions so that the Foreign National can be granted an extension of the Visit Residence Permit. Foreign nationals (foreigners) who commit violations of the visitors' residence permit get legal sanctions violations in the form of sanctions of administrative actions and pro justitia actions. So, in the Service of Extension of Residence Permit Visit to further improve cooperation between officers in the process of service to the applicant can be completed promptly.

Keywords: *Immigration, Role, Stay Visit Permits.*

1. INTRODUCTION

In the current global development, the high mobility of the population impacts the lives of the nation and the state, where information technology has a significant influence on everyone to travel to various places in the world. Many driving factors motivate a person to travel to various countries around the world. Such a decisive driving factor makes a person pass through various countries, thus creating a tremendous opportunity for developing a country.

Increased traffic and human mobility cause the role and function of immigration to be an essential and strategic part of minimizing negative impacts and encouraging the positive impact that will arise from the arrival of foreigners since entering, while in and conducting activities in Indonesia until he/she leaves the country territory.

Law No. 6 of 2011 on Immigration in Article 48 states that every foreigner in Indonesia's territory must have a residence permit. Foreigners are non-Indonesian citizens, while residence permits are granted to foreigners by immigration officials or foreign service officials to be in

Indonesian territory. Residence permits are divided into five types: diplomatic residence permits, official residence permits, visitation permits, limited residence permits, and permanent residence permits.

Immigration law is a set of instructions governing the discipline of people who pass within the area of Indonesia and supervision of the foreigners in the territory of Indonesia. Immigration law is in the public law, which governs the relationship between individuals and the state [2]. Setting the field of immigration of the country, based on the international law is the right and also the authority.

To support stability preservation and also national interests, state sovereignty, security, and public order, and also the vigilance against negative impacts arising from the crossing of people between countries, the presence, and the activities of the foreigners in the territory of Indonesia, it is necessary to conduct the surveillance for the foreigners and immigration actions quickly, thoroughly, and coordinated, without neglecting openness in the way of providing supervision for the foreigners.

The implementation of this supervision aims to realize domestic security marked by the guaranteed security and public order, establishment of the law, and implementation of protection, protection, and also service to the community.

The implementation of foreigners' supervision is the authority and responsibility of the Minister of Law and Human Rights. To carry out the existence and activities in the territory of Indonesia and coordinate the implementation of the duties of relevant government agencies in the supervision of foreigners. For supervising the foreigners, it is necessary to gather the data and information of every person who is entering or outside, located, and conducting activities in the territory of the Republic of Indonesia.

The Directorate General of Immigration as a public service unit is obliged to continue to make efforts and innovations in facilities, infrastructure, and technology to improve the quality of services. Technology that is currently growing to support the improvement of public services is information technology, so that the creation of public services is based on *Information Technology* (IT).

One of the Directorate General of Immigration's efforts to increase the quality of immigration services, especially in the passport of issuance services, by empowering the development of the information technology is the legality in the extension of the residence permits given to foreign nationals.

Surveillance of foreigners is the whole process of controlling the activities of foreigners in Indonesia's territory by the immigration documents owned by the foreigners. Thus, minimizing the occurrence of violations of residence permits by foreigners in the territory of Indonesia.

From the description above, then the formulations of the problems are as follows:

- What is the role of the residence permit section and immigration status in the management of the extension of the visit residence permit?
- Are legal sanctions a violation of a visit's residence permit?

2. RESEARCH METHOD

In order to collect data for this research, the author uses normative-empirical legal research methods that are research methods that, in this case, combine normative elements that are then supported by the addition of facts in the field. By approaching a legal event, there is a process that is still ongoing or not over. In this case, the author uses three kinds of legal materials such as primary legal materials, secondary legal materials, and tertiary legal materials.

3. RESULT AND DISCUSSION

Every foreigner who enters the territory of Indonesia must get the entry sign. The entry mark is given based on the type of visa owned by the foreigner concerned. The granting of this entry certificate is conducted by the Immigration Official in the charge of the Immigration Checkpoint (TPI) by stamping the travel document of the concerned foreigner, both manual and also electronic.

In addition, the Travel Documents such as Visas and Entry Signs must be owned by foreigners living in Indonesia. According to Law No. 6 of 2011 on Immigration, Article 48 paragraphs (1) and (2), "Every foreigner who is in the Territory of Indonesia must have a Residence Permit. Residence Permit is granted to Foreigners by their Visa". According to Law No. 6 of 2011 concerning Immigration Article 48 paragraph (3), Residence Permit as referred to in paragraph (1) consists of:

1. Diplomatic Residence Permit;
2. Office Residence Permit;
3. Visit Residence Permit;
4. Limited Stay Permit;
5. Permanent Residence Permit.

Permission (*Vergunning*) refers to approval of the ruler based on the law or even government regulations to, in certain circumstances, deviate from the provisions of the prohibition of legislation. Permission can also be interpreted as the dispensation or even release from a prohibition. The residence permit is granted to the foreigners by the immigration officials to be on Indonesian territory. Every foreigner must take care of the Residence Permit as long as he or she is in Indonesia.

Visit Residence Permit is granted to Foreigners entering the Territory of Indonesia with a Visit Visa; or a newborn child in the Territory of Indonesia at the time of birth of his father and/or mother who holds a Residence Permit visit [4].

Visitation Residence Permit for Visa Holders Visit 1 trip and several trips are granted for maximum of 60 days from the granting of the entry mark. Visit Residence Permit for Visa Holders Visit 1 trip can be extended at most 4 times, and the period of each extension is no longer than 30 days.

Visitation Residence Permit for on Arrival (VoA) Visa holders is granted for maximum of 30 days from the granting of the entry mark and can be extended 1 time for maximum of 30 days. Visitation Residence Permit for Foreigners from the countries exempted from the obligation to own Visa (BVKS) is granted for a maximum of 30 days from granting an entry mark.

Visitation Residence Permit is granted to:

1. Foreigners entering Indonesia on a Visit Visa;
2. Newborn children in the region of Indonesia and at the time of birth the father and/or mother holder of Residence Permit Visit. The Visit Residence Permit is granted by the Visit Residence Permit of the father and/or mother;
3. Foreigners from the countries exempted from the obligation to own a Visa by the provisions of the laws and regulations;
4. Foreigners who serve as the crew members of Transport Equipment that is in the territory of Indonesia by the provisions of the laws and regulations;
5. Foreigners entering Indonesian region in emergency situation; and,
6. Foreigners entering Indonesia on a Visit Visa upon arrival.[5]

In granting the application for the extension of the Visit Residence Permit, Foreign Nationals must have some requirements for the application to be processed. In the application for the extension of The Residence Permit, two general requirements and special requirements must be fulfilled.

- a. General Requirements, applicants are required to attach:
 1. Application form.
 2. Letter of request and guarantee from the guarantor.
 3. Original nationality passport and photocopy containing proof of valid and valid visitation permit.
 4. The application for a second to the fifth extension attaches proof of registration of foreigners from the Head of Immigration Office or designated Immigration Officer.
 5. Not included in the prevent-tang list.
 6. Pay the Immigration Fee by the provisions.

- b. Special Requirements, applicants requires to attach:

Proof of guarantee in the form of a *return ticket* to return home or continue the trip to another country. By fulfilling the conditions that have been set, with the hope of monitoring human traffic is also one part of the function of immigration carried out and become an essential and strategic part in order to minimize the negative impact of the arrival of foreigners since entering, being and conducting activities in Indonesia to exit the territory of Indonesia and at the same time have a positive impact and create a national development continuity.

The Section of Residence Permit and Immigration Status has the task of conducting residence permit and immigration status in accordance with the applicable law.

The function of Immigration Status includes determining immigration status for foreigners in Indonesia and conducting research on evidence of a person's citizenship regarding citizenship status.

To carry out the duties as referred to in Article 579 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.HH-05. OT.01 the Year 2010 On Organization and Working Procedure of the Ministry of Law and Human Rights of the Republic of Indonesia, Directorate of Residence Permits and Immigration Status has the following functions:

1. Prepare a draft policy formulation in the field of residence permits, transfer immigration status and review immigration and citizenship status;
2. Implementation of guidance, guidance, and services in the field of residence permits, transfer of immigration status, and review of immigration and citizenship status;
3. Preparing the preparation of norms, standards, procedures, and criteria in the field of residence permits, transferring immigration status, and reviewing immigration and citizenship status;
4. Implementation of technical policies in residence permits, transfer of immigration status, and review of immigration and citizenship status; Dan.
5. Implementation of administrative and household affairs and evaluation and preparation of reports on the Directorate of Residence Permits and Immigration Status.

The Residence Permit and Immigration Status sections perform their functions as follows:

- a. Planning, evaluation, and reporting in the field of residence permits and immigration status;
- b. Residence permit services;
- c. Re-entry service;
- d. Immigration status checking, review, and completion;
- e. Review of immigration status and citizenship in the framework of issuance of immigration certificate;
- f. Immigration certificate service; Dan.
- g. Proof of registration of dual nationality [8].

All products of Immigration Permit for Foreign Nationals (WNA), such as Extension of Visit Residence Permit, Extension of Residence Permit on Arrival (VOA), Limited Stay Permit (ITAS), Permanent Residence Permit (ITAP), Water ITAS (Dahsuskim), Immigration Certificate (SKIM) and others, all of which are carried out in the Section of Residence Permit and Immigration Status.

In applying for an extension of the Visit Residence Permit for Foreign Nationals, the Section of Residence Permit and Immigration Status has a role in the process and receive the file.

Submitted by the applicant or guarantor, the counter officer accepts the application for renewal after the file submitted by the applicant has been fulfilled by the applicable provisions so that Foreign Nationals can be granted an extension of the Visit Residence Permit [8].

In applying for an extension of the Visit Residence Permit, the applicant, in this case, a Foreign National (WNA), is obliged to go through a series of application procedures to obtain the issuance of a Visit Residence Permit. The party that has the authority to issue a residence permit for a visit is the Head of the Immigration Office, where the applicant applied.

The procedure for the extension of the residence permit of the visit that has been established must be adhered to by the applicant. In-law country, every state or government activity included in the application for an extension of the residence permit must be subjective to the rules of law that guarantee and protect the rights of its citizens. Both in the civil and political fields and in the social, economic, cultural, and cultural fields. In other words, the law is placed as the rule of play in state and government administration to organize a peaceful, just, prosperous and meaningful society.

Therefore, every state or government activity should be a public *service* that radiates from the rights of everyone who must be served and protected, including Foreign Nationals (FOREIGNERS) who in this case have the right to be served in the application for an extension of the visit residence permit.

Visit Residence Permits that have been processed by the Section of Residence Permits and Immigration Status can be said to expire for several reasons, including:

1. The permit holder returns to his/her home country;
2. Time-out occurs;
3. Switch status to Restricted Stay Permit;
4. Cancelled by the Minister or appointed immigration Officer;
5. Permit holders are subject to deportation; And,
6. The licensee died.

Immigration law is part of the legal system that applies in Indonesia, even a subsystem of state administrative law. For foreigners must be disciplined while in Indonesia, surveillance is carried out by the Government through the Directorate General of Immigration of the Ministry of Justice and Human Rights. Generally, the supervision of foreigners in Indonesia includes two things, namely the entry and exit of foreigners to and from the territory of Indonesia and the presence and activities of foreigners in the territory of Indonesia. Therefore, the directorate general of immigration has determined the framework of its duties reflected in the Tri Function of Immigration, namely:

a. Community Service Functions

From this aspect, immigration is required to provide excellent services in immigration, both to Indonesians and foreigners. Services for Indonesian citizens consist of Passports, Passport- Like Travel Letters (SPLP), Cross-Border Passes (PLB), and the provision of departing or entering signs. Services for foreigners consist of granting and renewing immigration documents (DOKIM) in the form of a Limited Stay Permit Card (KITAS), Permanent Residence Permit Card (KITAP), Special Ease of Immigration (DAHSUSKIM), the extension of visit visa, granting re-entry permit, departing permit and granting departing and entry sign [9].

b. Security Functions

Immigration serves as the gatekeeper of the country. It is caused that immigration is the first and last institution that filters the arrival and departure of foreigners to and from the territory of the Republic of Indonesia. The implementation of security functions aimed at Indonesian citizens is described through foreign precautions for Indonesian citizens. The implementation of security functions addressed to foreigners are as follows:

1. Make a selection of any intention of the arrival of foreigners through the examination of visa applications.
2. Cooperating with other state security apparatus, especially in providing *supervision* regarding immigration law enforcement.
3. Conducting immigration intelligence operations for the security interests of the country.
4. Take precautions and countermeasures [9].

c. Law Enforcement Functions in the implementation of immigration duties, the absolute rule of law must be enforced to everyone in the territory of Indonesia, be it Indonesian citizens directed to the issue of false identity, sponsorship accountability, dual sponsorship ownership, and involvement in the enforcement of immigration rules.

Law enforcement against foreigners is aimed at identity forgery, registration of foreigners, and the provision of foreign surveillance books, misuse of residence permits, illegal entry or illegal entry, monitoring or raiding, and geographical insecurity within the crossing. All operations and law enforcement functions implemented by immigration institutions include refusal of entry permits, permits, immigration permits, and immigration actions. All of these are administrative forms of law enforcement, meanwhile, in

terms of pro-judicial law enforcement, namely the authority of the investigation, covered by the task of investigation (summons, arrest, detention, examination, search and seizure), filing of cases, and filing of case files to the public prosecutor.

The trifunctional of immigration which is the ideology or outlook of life for every policy and ministry of immigration, must be changed because of the demands of the times. The paradigm of security conception is now starting to shift, initially using the regional approach (*territory*), which only includes national security (national security) turned into a comprehensive approach in addition to national security as well as public security (*human security*) by using a legal approach. Supporting the conception so that immigration people change the view on the concept of security that was initially only as a tool of power, to become an apparatus that can provide legal certainty, carry out law enforcement, and provide protection to the community. In order to resist the challenge, it is best opportunity to open the horizon of thinking from inward-looking into the way of outward-looking and began to change the paradigm of immigration trifunctional that was original as a public servant, law enforcement, and security. In order to be transformed into a new immigration trifunctional, namely as a public servant, law enforcement, and facilitator of economic development.

Immigration violations and crimes will arise with the arrival of foreigners in the territory of Indonesia. In response to these violations committed by foreigners will be taken decisive action. Immigration measures imposed can be in the form of deportation as one of the unique and typical actions of the immigration function as mentioned in the Law of the Republic of Indonesia Number 6 of 2011 on Immigration.

If in the supervision found immigration violations such as the misuse of residence permits, the period of a residence permit has expired (*overstay*), and do not have a residence permit (illegal stay), then immigration measures are carried out, including administrative and pro *justiciar* actions.

1. Administrative Actions

Immigration actions in the administrative form are better known as Immigration Administration actions. This action is non-litigation, an action in the form of imposition of sanctions or outside or not through a court decision [2].

2. Pro Justicia Action

Pro Justicia is an act in the form of imposition of sanctions through the process/decision of the court. In this case, there are several stages, namely:

1. Investigation
2. Investigation
3. Prosecution [11].

Examination in the court of law enforcement, especially criminal law when viewed from a policy process, law enforcement is essentially policy enforcement through several stages, namely:

1. Formulation Stage;
2. Application Stage;
3. Execution Stage [12].

As a follow-up to the supervision of foreigners, action is taken if there is abuse or violation of residence permits committed by foreigners (FOREIGNERS) such as falsification of immigration documents and visas to obtain a residence permit, misuse of visas, residence permits that exceed the time limit (*overstay*) and other immigration permit violations committed by foreigners, both concerning the permit of his existence and his activities while in the territory of Indonesia. Officials authorized to carry out immigration measures are:

1. Immigration Officials at Immigration Checkpoints, as long as it concerns the refusal of entry permits and the suspension of the granting of leave.
2. Head of Immigration Office for foreigners who have a stopover permit and a visitation permit located in his/her work area.
3. Head of the Regional Office of the Ministry of Law and Human Rights to foreigners who hold a stopover permit, a visit permit, and a limited residence permit in his work area.
4. Director-General of Immigration, in this case, the Director of Immigration Supervision and Enforcement of foreigners with immigration permits in the territory of the Republic of Indonesia.

Thus, if the rules in immigration can be adequately enforced without the interference of interested parties, this will also impact economic development in Indonesia, especially from the tourism sector. Foreigners can enjoy Indonesian nature with their Indonesian entry permits and comply with the permits that have been granted.

4. CONCLUSION

The role of the section of residence permit and immigration status in the management of the extension of the visit residence permit is to have a significant role in processing and receiving the file submitted by the applicant or guarantor. The counter officer receives the application for renewal after the file submitted by the applicant has been fulfilled by the applicable provisions so that Foreign Nationals can be granted an extension of the Visit Residence Permit.

Legal sanctions for violations of the residence permit of the visit are to be given immigration measures in Administrative and Pro *Justicia* measures. What is meant by administrative action is a non-litigation action that is an action in the form of imposition of sanctions or outside

or not through a court decision/trial and *pro Justicia* is an action in the form of imposition of sanctions through the process/decision of the court.

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