

LAW ENFORCEMENT AGAINST FOREIGNERS USING FAKE PASSPORTS

Muhammad Aulia Akbar^{1*}, Warasman Marbun², Saefullah³

Faculty of Law, Krisnadwipayana University, Jakarta, Indonesia

akbar223@gmail.com^{1*}, warasman34@gmail.com², saefullah11@gmail.com³

Abstract

The phenomenon of many foreigners still entering Indonesia has caused various problems, including the use of fake passports. In the field of supervision immigration Lots happen case forgery letter travel by foreigners. Although Constitution immigration arrange punishment serious crime, in reality Lots case forgery document journey Already brought to court, but the verdict Still too light on demands of the Public Prosecutor, as well as still there are foreigners who have already managed to get in to the Indonesian region with use letter the alleged journey fake. Of course just, thing This No cause effect deterrent for foreigners who try to fake document travel in Indonesia. The Problem Is How enforcement law against foreigners who use it passport false For enter and/ or go out from the territory of Indonesia in the Decision Number 126/ Pid.Sus /2021/PT.BTN and Decision Number 1234/ Pid.Sus /2020/PN JKT.SEL? How? effort prevention and eradication use passport fake by foreigners? *The research method* is normative legal research. *The conclusion is* Legal regulation of Foreign Citizens who commit the crime of passport forgery is regulated in Articles 263 to 264 of the Criminal Code in Indonesia regulated in Law No. 6 of 2011 regulated in CHAPTER XI Articles 126-130 and in Government Regulation No. 31 of 2013 concerning the Implementing Regulations of Law No. 6 of 2011 concerning Immigration and the efforts made by the Directorate General of Immigration to prevent passport forgery by Foreign Citizens, namely by forming TIMPORA (Foreigner Supervision Team) by forming a foreigner supervision team, immigration can synergize with related agencies to prevent foreigners who will make fake Indonesian passports.

Keywords : Law Enforcement, Foreigners, Fake Passports

INTRODUCTION

The influence of globalization at this time has resulted in progress in all fields, causing a high level of interaction between humans in meeting their needs, in meeting these needs it is not only done in a place where humans live or reside. Humans always try to find a better life, one of which is One form of this is the movement of people from one place to another, called migration. It is the immigration institution that has the task and function of handling this matter, this can be seen from the definition of immigration, namely "matters regarding the traffic of people entering or leaving the territory of Indonesia and its supervision in order to maintain the sovereignty of the state". Immigration has a function as part of the state government's affairs in providing immigration services, law enforcement, state security, and facilitator of community welfare development.

The Republic of Indonesia responded to this by passing Law Number 6 of 2011 concerning Immigration. Article 1 paragraph (1) of Law Number 6 of 2011 concerning Immigration explains that immigration is a matter of the movement of people entering or leaving the territory of the Republic of Indonesia and its supervision in order to maintain the sovereignty of the state. Therefore, this supervision should not only be carried out when foreigners or Indonesian citizens enter or leave. Especially for foreign citizens, supervision must continue to be carried out as long as they are still in the territory of Indonesia. Article 2 of Law Republic of Indonesia No. 6 of 2011 concerning Immigration stated that every Indonesian citizens have the right do journey exit and enter the territory of Indonesia. For each Indonesian citizens who will do journey abroad and will return enter to Indonesia, Law immigration arrange obligations that must be fulfilled filled with one of them that is document journey Republic of Indonesia or passport.

Immigration is one of global problems that can bring impact negative, good in scope national and also international. For the perpetrators, the trip illegal interstate is road go out from the problems he experienced, but for the area of the country visited will cause a problem, because concerning place shelter, field work, materials needs, and others.

Problem immigration related with crimes and violations, as well as own consequence law with given to him sanctions law, more known with act criminal immigration. Action criminal immigration is a form action marked law with arrival or the presence of foreigners in the territory of the Republic of Indonesia or the exit citizen Indonesia to other countries' territories with use or no own document journey immigration (Ibrahim, 2007).

along with development society and technology are increasingly complex, government arrange element act criminal different immigration with act criminal others, so that expected capable face global challenges that have very big impact to implementation functions and duties Immigration. Arrangements about act criminal immigration set up in Chapter XI Provisions Criminal in Constitution Number 6 of 2011 Concerning Immigration. Practice organization law immigration, of course No all problem field immigration can walk in accordance with regulations immigration, many very happen violation, crime and also deviation in field immigration. Development technology and structure public international own relevance to emergence forms crime transnational, including inside it organizations as the container (Ibrahim, 2007).

Immigration including one of agency government, which is one of the his activities give service to community. Service in matter give all licensing immigration in the form of Visa, Permit entry, alien registration, permit enter back, permission go out No back, RI Travel Letter, sign depart, sign enter, letter information immigration and change

immigration. Places service immigration, including field or sub- field immigration at the Representative Republic of Indonesia abroad, on the go in aircraft air, and boat sea, place examination immigration, Immigration Office, Field Immigration at the Regional Office of the Department Justice and Human Rights, as well Directorate General Immigration.

Based on provision universal immigration, each country has the authority for allow or forbid somebody for enter and also go out a country. Based on universal recognition, the existence of regulation immigration is very important attribute in to uphold sovereignty law a country within the territorial territory of the country concerned, and every foreigner entering the territory of a country will subject to the laws of the country as as it is inhabitant That alone. One of the related crimes with Immigration is crime forgery document Immigration (documents) Immigration false or forged) (Bhakti, 2003). Forgery According to the Big Indonesian Dictionary, it is a process, method, action forgery. forgery Passport is Crimes committed with method replace, change part or in a way overall from A passport or use information false for accept passport (Ardiansyah, 2016). Actions This it can also be said as action to deceive or cheating others with as much as possible Possible to condition something that is not Correct or No original become as if Correct or genuine, so that other people believe and are deceived.

Based on Article 263 of the Criminal Code can concluded that forgery is make false or to fake something that can cause rights, obligations, exemptions, debts, or allocations as proof than something matter with Meaning For use or tell someone else to wear something the as if the contents true and not forged, threatened If usage the can cause loss Because forgery with criminal prison. According to Constitution Immigration No. 6 of 2011 forgery explained in provision the crime in question with forgery is use document journey Republic of Indonesia fake, use document journey Republic of Indonesia other people (impostors) or those who have revoked, providing data that is not Correct or No legitimate For to obtain document journey Republic of Indonesia, has and uses 2 (two) or more document journey The Republic of Indonesia which is similar to all Still valid, and falsify document or make document journey Republic of Indonesia.

Based on description background behind mentioned above, then formulation problem in study This is How enforcement law against foreigners who use it passport false for enter and/ or go out from the territory of Indonesia in the Decision Number 126/ Pid.Sus /2021/PT.BTN and Decision Number 1234/ Pid.Sus /2020/PN JKT.SEL? and How effort prevention and eradication use passport fake by foreigners?

RESEARCH METHODS

In this study, the type of research used is normative legal research/normative juridical legal research. This study was conducted to identify law enforcement against foreigners who use fake passports to enter and/or exit the territory of Indonesia.

The legal materials used in this study are primary data and secondary data. Primary data is data obtained directly from the source which is done through the interview method. The secondary data used in this study was obtained directly through literature searches or official documents, namely books on legal theory, legal philosophy and books on legal discovery and legal interpretation. This is important for the author to sort and then analyze against the regulations/provisions of legislation. This secondary data consists of three legal materials, namely primary legal materials, secondary legal materials and tertiary legal materials.

RESEARCH RESULT**Law Enforcement Against Foreigners Who Use Fake Passports to Enter and/or Leave Indonesian Territory in Decision Number 126/Pid.Sus/2021/PT.BTN and Decision Number 1234/Pid.Sus/2020/PN JKT.SEL**

Law enforcement as a follow-up to supervision, especially supervision of foreigners in Indonesia and handling of immigration in general, enforcement is a very important thing and must be implemented. The implementation of enforcement of immigration violations can be divided into two types, namely:

1. Immigration actions in the form of administration; and
2. Immigration actions in form act criminal immigration how legislation / litigation or court proceedings.

Administrative actions immigration is sanctions administratively determined official immigration towards foreigners outside the court process. Immigration action in form administrative non -litigation in nature, namely a action in the form of imposition sanctions outside or through decision court. The purpose of its implementation prohibition towards foreigners be in place certain is Because its existence No required by the government are in certain areas in Indonesia. While somebody foreign imposed sanctions required for located stay in place certain It means is placement in a detention house Immigration, Detention Room Immigration or place other. For the sake of implementation enforcement law in the territory of the Republic of Indonesia, of course, administrative actions immigration good action in a way preventive and also repressive must run in accordance with Constitution Immigration. Actions of a legal nature law administrative is thing that contains about regulation, service, licensing from aspects immigration that is about entering and leaving Indonesian territory.

Implementation of Administrative Actions Immigration, for ensure certainty law and justice for foreigners affected action immigration the his decision set in a way written , which contains at least identity of the person subject to Administrative Action Immigration, reasons enforcement and types action as well as can submit object on action immigration said (Saleh, 2008). Administrative Action Immigration enforced towards foreigners has done dangerous activities or worthy allegedly dangerous for security and order general or also because No honor or obey regulation legislation in force in the Unitary State Republic of Indonesia. Monitoring is one of method or activities / efforts undertaken For know in a way early every alleged incident contain elements violation / crime, either about existence and also foreigner activities. Types action administration immigration can in the form of:

1. Inclusion to in the Prevention List or Prevention
2. Restrictions, Changes or Cancellation Residence Permit
3. Prohibition For be in one or a number of place certain in the Territory of Indonesia
4. Must For Residing in a Place Place Certain in the Territory of Indonesia
5. Imposition Cost of Expense
6. Deportation from the Territory of Indonesia.

Success implementation is very much determined by quality and quantity implementation in facing types and kinds violation crime like as it is form and nature violations in the field social and cultural, far easier and lighter compared to violation political or work veiled. Therefore, efforts to search for and find information materials require planning through a mechanism of mature planning, organization and coordination by paying attention to the situation and conditions of the field, so that decision making can be carried out carefully and precisely, effectively and efficiently.

Article 75 Law no. 6 of 2011 concerning immigration mention :

- (1) Immigration Officers have the authority to carry out Administrative Immigration Actions against Foreigners in the Territory of Indonesia who carry out dangerous activities and are suspected of endangering public security and order or do not respect or do not comply with laws and regulations.
- (2) Administrative Action Immigration as referred to in paragraph (1) may in the form of :
 - a. Inclusion in the Prevention list or Prevention ;
 - b. Restrictions, changes, or cancellation Residence Permit ;
 - c. Prohibition For be in one or a number of place certain in the Territory of Indonesia;
 - d. Must For located live in a place certain in the Territory of Indonesia;
 - e. Imposition cost load ; and/ or
 - f. Deportation from the Territory of Indonesia.
- (3) Administrative Action Immigration in the form of Deportation can also be done against Foreigners who are in the Territory of Indonesia because try avoid self from threats and implementation punishment in his home country.

Article 78

- (1) Foreigner holder Residence Permit that has been expired and still valid is at in the territory of Indonesia less of 60 (six twenty) days out of time Residence Permit is subject to cost burden in accordance with provision regulation legislation.
- (2) Foreigners who do not pay cost burden as referred to in paragraph (1) shall be subject to Administrative Action Immigration in the form of Deportation and Deterrence .
- (3) Foreigner holder Residence Permit that has been expired and still valid is at in the Indonesian Territory more of 60 (six twenty) days out of time Residence Permit Subject to Administrative Action Immigration in the form of Deportation and Deterrence.

Article 86

The provisions of the Immigration Administrative Actions do not apply to victims of human trafficking and human smuggling.

Immigration law enforcement in addition to being carried out through Immigration Actions (Administrative Actions) can also be carried out through investigative actions in accordance with the Criminal Procedure Code and is given authority to Immigration PPNS to carry out law enforcement within the scope of the Justice System. Only when immigration law enforcement is carried out through the *pro iustitia* process (judicial process), then Immigration Officers or Immigration Civil Servant Investigators work and are within the scope of the Justice System. Law enforcement against Foreign Citizens who commit passport forgery will be carried out through *Projustisia* actions in accordance with the provisions of applicable laws, namely Law No. 6 of 2011 concerning immigration.

In Decision Number 126/Pid.Sus/2021/PT.BTN, the Banten High Court which examined the criminal case at the appeal level, that the defendant Ghassem Saberi Gilchalan, place and date of birth in Tehran (IRAN), July 13, 1972, Age 49 Years, Male

Gender, Iranian Nationality, Residence Tehran Fakori 7 Shargi No. 22 (IRAN), Religion Islam, Occupation Private Employee.

Ghassem Saberi Gilchalan, on Wednesday, May 19, 2021 at approximately 08.47 WIB or at least at some time in May 2021, at the Terminal 3 International Arrival Area of Soekarno Hatta Airport, Benda District, Tangerang City or at least at another place that is still included in the jurisdiction of the Tangerang District Court which has the authority to examine and try his case, a Foreigner who intentionally uses a Travel Document, but it is known or reasonably suspected that the Travel Document is fake or falsified, the defendant committed the act in the following manner:

Starting on Monday, May 24, 2021 at around 08.00 WIB, witness Fery Singgih together with witness Waris and witness Agung (Member of the General Criminal Investigation Unit of the Soekarno Hatta Airport Police) conducted a patrol at Terminal 3 of Soekarno Hatta International Airport and received information that there was a foreign citizen who entered Indonesia using a document in the form of a fake passport, namely Ghassem Saberi Gilchalan, arriving on Wednesday, May 19, 2021 at around 08.47 WIB using Qatar Airways QR956 to Doha-Jakarta. Based on this information, witness Fery Singgih and his work team immediately conducted an investigation. Then witness Fery Singgih and his colleagues coordinated with the Soekarno Hatta Airport Immigration Officer to check the crossing of a foreign citizen named Ghassem Saberi Gilchalan who entered Indonesia and it was true that a foreign citizen named Ghassem Saberi Gilchalan entered Indonesia on Wednesday, May 19, 2021 at around 08.47 WIB using Qatar Airways QR956 to Doha-Jakarta. Furthermore, a Manifest was made to the Qatar Airways Office and the passport was checked at the Bulgarian Embassy in Jakarta, the result of which was that the Bulgarian Embassy stated that the Bulgarian Passport in the name of Ghassem Saberi Gilchalan with Passport number 382509836 was Fake.

On Thursday, May 27, 2021, witness Agung together with the Sat Reskrim Polres Soekarno Hatta Airport team checked the ticket history at Qatar Airways and found that the data showed that Ghassem Saberi Gilchalan changed his return ticket from July 18, 2021 to May 27, 2021, then witness Agung together with witness Waris Ahmad Sodik at around 18.00 WIB succeeded in arresting the defendant Ghassem Saberi Gilchalan in the Departure Area of Terminal 3 Soekarno Hatta International and based on the results of the interrogation of the defendant Ghassem Saberi Gilchalan admitted that he had used a Bulgarian passport in the name of Ghassem Saberi Gilchalan with Passport number 382509836 which was fake to enter the territory of the Republic of Indonesia on Wednesday, May 19, 2021 at around 08.47 WIB using Qatar Airways QR956 for Doha-Jakarta with the aim of using the fake passport to obtain VISA B211A/Residence Permit in Indonesia.

When the defendant Ghassem Saberi Gilchalan was arrested, he was found to have 1 (one) Bulgarian Passport No. 366391997 in the name of Ghassem Saberi Gilchalan with the date of issue month year 10-11-2013 to 10-11-2018, 1 (one) Bulgarian Passport No. 382509836 in the name of Ghassem Saberi Gilchalan with the date of issue month year 18-02-2020 to 18-02-2030 and 1 (one) IRAN Passport No. E47426399 in the name of Ghassem Saberi Gilchalan with the date of issue month year 29-10-2018 to 29-10-2023. The defendant Ghassem Saberi Gilchalan is an IRAN citizen as stated in the IRAN Passport No. E47426399 in the name of Ghassem Saberi Gilchalan, date, month, year of issue 29-10-2018 to 29-10-2023, where to obtain the passport, the defendant Ghassem Saberi Gilchalan took care of it directly in his country. The defendant Ghassem Saberi Gilchalan is not a Bulgarian citizen and to obtain a passport issued by the State of

Bulgaria, the defendant Ghassem Saberi Gilchalan obtained it by buying it from a fellow Iranian citizen named Mr. Sayad.

The request and examination at the appeal level by the Public Prosecutor and the Defendant has been submitted within the time limit and procedures and conditions stipulated in the Law, then the request for appeal can be accepted.

The Panel of Judges at the Appellate Level, after carefully and thoroughly examining and examining the case files along with a copy of the Tangerang District Court Decision Number 1194/Pid.Sus/2021/PN.Tng dated September 15, 2021 and the appeal memorandum submitted by the Defendant's Legal Counsel dated October 5, 2021 and the counter appeal memorandum from the Public Prosecutor dated October 12, 2021, the Panel of Judges at the Appellate Level is of the opinion that the legal considerations and conclusions of the panel of judges at the first level state that the Defendant has been proven legally and convincingly guilty of committing a crime as charged in the first indictment of violating Article 119 paragraph (2) of Law of the Republic of Indonesia Number 6 of 2011 concerning Immigration are correct and correct according to the law.

However, the panel of judges at the appellate level needs to improve the consideration of aggravating factors that are not included in the description of the verdict at the first level, based on the minutes of the trial, legal facts were obtained based on the Defendant's statement, that the Defendant Ghassem Saberi Gilchalan had come to Indonesia 10 (ten) times using a fake Bulgarian passport so that this act was an aggravating factor.

Likewise, regarding the qualification of the criminal act, the panel of judges at the appellate level needs to improve it in accordance with the qualification of the article stated in the first indictment which will be mentioned in this verdict. The appeal memorandum submitted by the Defendant's Legal Counsel dated October 5, 2021, the contents of which can be concluded that the Defendant objects to the sentence imposed on the Defendant which is felt to be too heavy, unprofessional and unfair and requests that the law imposed on him be as light as possible.

The reasons and objections of the Defendant's Legal Counsel cannot be justified because based on the legal considerations of the panel of judges at the appellate level above, the Defendant has committed 10 (ten) acts of entering Indonesia using a fake Bulgarian passport so that the Defendant's actions are aggravating factors for the Defendant, therefore the panel of judges at the appellate level is of the opinion that the sentence imposed by the panel of judges at the first level is considered appropriate and fair enough according to the law so that the decision of the Tangerang District Court Number 1194 / Pid.Sus / 2021 / PN.Tng dated September 15, 2021 must be maintained and strengthened except for legal considerations regarding aggravating factors and the mention of criminal qualifications that need to be corrected as stated in the verdict below.

Because the Defendant was still found guilty and sentenced to a criminal penalty, the court costs were charged to the Defendant at two levels of trial. Considering, Article 119 paragraph (2) of Law Number 6 of 2011 concerning Immigration and Law Number 8 of 1981 concerning Criminal Procedure Law and other relevant laws and regulations.

Then in Decision Number 1234/Pid.Sus/2020/PN JKT.SEL, the South Jakarta District Court which tried the criminal case with the regular examination procedure in the first instance that the defendant Adama Coulibaly, Place and date of birth Dist. Bamako Mali, July 5, 1979, Age 41 Years, Male Gender, Nationality Mali, Residence Kost Gang Toko Menteng No.2 Room 8 Jalan Fatmawati Raya South Jakarta or Douala, Bonadibong, Cameroon, Religion Christian, Occupation, None.

Adama Coulibaly, on Thursday, June 25, 2019 at around 21.00 WIB or at least at another time in June 2020, at a boarding house located at Gang Toko Menteng No.2 Room 8 Jalan Fatmawati Raya South Jakarta or at least at another place that is still included in the jurisdiction of the South Jakarta District Court which has the authority to examine and try the case, as a foreigner (citizen of Mali) who entered and/or was in the Territory of Indonesia who did not have valid and valid Travel Documents and Visas, the defendant committed the act in the following ways:

On Thursday, June 25, 2019 at around 21.00 WIB, when witness Agus Suratna together with witness Katri Prihanto as a civil servant from the Intelligence and Immigration Enforcement Division at the Class I Special Non-TPI Immigration Office in South Jakarta conducted an operation to inspect Travel Documents and Residence Permits in the context of Immigration supervision in a boarding house located at Gang Toko Menteng No. 2 Room 8 Jalan Fatmawati Raya South Jakarta, in the operation, one of the foreigners named the defendant Adama Coulibaly, a citizen of Mali, was caught, then after an inspection of the boarding house he lived in, Adama Coulibaly's passport was found hidden in a Compact Disk (CD) wrapper in the boarding house room occupied by the defendant Adama Coulibaly, the Malian passport number B0108598 was valid until March 10, 2013 so that the defendant Adama Coulibaly deliberately lived and settled in the Territory of Indonesia without having valid travel documents and visas and still applies. The judge's considerations are as follows:

Ad.1. Every Foreigner;

That what is meant by Every Person is every person as a legal subject who is brought to trial by the Public Prosecutor because he has been accused of committing a criminal act in order to avoid subject error (*error in persona*), while Foreigners based on Article 1 number 9 of Law Number 6 of 2011 concerning Immigration, what is meant by "foreigner" is a person who is not an Indonesian citizen and it turns out that the Defendant is a Malian citizen.

The Public Prosecutor has presented the Defendant, namely Adama Coulibaly, and it turns out that after being examined, the Defendant's complete identity is the same as the identity in the Public Prosecutor's Indictment and other letters in the case file in question is the Defendant himself, in this case there was no subject error (*error in persona*) and during the trial the Defendant appeared to be able to interact well and appeared to be able to be responsible for his actions, thus the element of Whoever has been fulfilled in the Defendant.

Ad.2. As a foreigner (citizen of Mali) who enters and/or is in the Territory of Indonesia who does not have a valid and valid Travel Document and Visa.

That what is meant by intentionally is interpreted as " *willens en weten* ", which means that someone who does something intentionally, must will (*willens*) the act and must be aware/understand (*weten*) the consequences of the act. Considering, that based on the statements of the witnesses and the defendant's own statement and supported by evidence that the defendant as a foreigner (a citizen of Mali) did not have valid and valid Travel Documents and Visas, namely on Thursday, June 25, 2019 at around 21.00 WIB, when witness Agus Suratna together with witness Katri Prihanto as a civil servant from the Intelligence and Immigration Enforcement Division at the Class I Special Non-TPI Immigration Office in South Jakarta conducted an operation to inspect Travel Documents and Stay Permits in the context of Immigration supervision in a boarding house located at Gang Toko Menteng No. 2 Room 8 Jalan Fatmawati Raya South Jakarta, in the operation one of the foreigners was caught, namely the defendant Adama Coulibaly, a

citizen of Mali, then after an inspection of the boarding house where he lived, Adama Coulibaly's Passport was found hidden inside a Compact Disk (CD) wrapper in the boarding room occupied by the defendant Adama Coulibaly, the MALI citizen Passport Number B0108598 was valid until March 10, 2013 so that the defendant Adama Coulibaly intentionally lived and settled in the Territory of Indonesia without having valid and valid travel documents and Visa, then the defendant and his Passport were immediately taken back to the Subdit Penyidik room by the immigration officer who was on duty at that time to be examined further. The defendant knew that he intentionally lived and settled in the Territory of Indonesia without having valid and valid travel documents and Visa where this act violates the Immigration Law.

Based on the above considerations, the element of deliberate has been fulfilled. Considering, that because all elements of Article 119 of Law of the Republic of Indonesia No. 6 of 2011 concerning Immigration in conjunction with Article 71 letter b of Law of the Republic of Indonesia No. 6 of 2011 concerning Immigration have been fulfilled, the Defendant must be declared legally and convincingly proven to have committed a crime as charged in the single indictment.

Regarding the Defendant's application, the Panel will only consider mitigating factors for the Defendant's actions.

From the facts obtained during the trial in this case, the Panel of Judges did not find anything that could release the Defendant from criminal responsibility, either as a justification and/or excuse, therefore the Defendant must be sentenced to a sentence commensurate with his actions. Considering that the sentence to be imposed on the Defendant is not only preventive and curative in nature but also educative in the sense of fostering and educating the person concerned to realize his mistakes and strive to become a good citizen in the future, then the sentence to be imposed on the Defendant as in this verdict is in accordance with the Defendant's mistakes and fulfills a sense of justice.

Because the criminal threat in Article 119 of Law No. 6 of 2011 concerning Immigration is imprisonment and a fine, the defendant is sentenced to imprisonment and a fine in addition to being sentenced to imprisonment. In this case, the defendant has been subject to legal arrest and detention, so the period of arrest and detention must be deducted entirely from the sentence imposed. So the defendant is detained and the detention of the defendant is based on sufficient reasons, so it is necessary to determine that the defendant remains in detention. against the evidence presented in court to be further considered as follows:

That the evidence in the form of 1 (one) letter from the Head of the Immigration Office, 2 (two) letters from the Director of Immigration Information Systems and Technology, which are mentioned in the attachment to this case are submitted to the trial by the Public Prosecutor, then the evidence remains attached to the case file. Evidence in the form of 1 (one) travel document (passport) of MALI nationality Number B0108598. which has been confiscated from the Defendant, is returned to the Defendant.

In order to impose a criminal sentence on the Defendant, it is necessary to first consider the aggravating and mitigating circumstances of the Defendant. Taking into account Article 119 of Law of the Republic of Indonesia No. 6 of 2011 concerning Immigration in conjunction with Article 71 letter b of Law of the Republic of Indonesia No. 6 of 2011 concerning Immigration and Law Number 8 of 1981 concerning Criminal Procedure Law and other relevant laws and regulations.

The author assesses that in these two decisions, the Panel of Judges examining the decision on the criminal case of passport forgery in Decision Number

126/Pid.Sus/2021/PT.BTN and Decision Number 1234/Pid.Sus/2020/PN JKT.SEL according to the author is correct, because the judge must make a fair and informed decision, taking into account the legal implications and implications. In an effort to enforce the law and maintain Indonesia's sovereignty through the investigation process based on the provisions of Article 47 of Law Number 6 of 2011 concerning Immigration which is carried out in accordance with the principles and methods of criminal procedure law. So that if there is a case of immigration crime committed by a foreign citizen, it must be processed according to applicable regulations.

As in the case explained in this thesis, the court imposed criminal sanctions on the actions of a Foreign Citizen who falsified travel documents, which in fact the falsification of travel documents has indications of committing other crimes and other purposes so that the Foreign Citizen is determined to enter the sovereign territory of another country by falsifying his travel documents. So it can be seen that immigration crimes are crimes regulated by a separate law, namely Law Number 6 of 2011 concerning Immigration. The law has regulated the types that are included in immigration crimes including the criminal sanctions imposed on immigration violations.

Prevention and Eradication Efforts Use Passport Fake By Foreign Nationals

The occurrence act criminal immigration like manufacturing and counterfeiting letter the journey which is document officially which is legitimate should issued by authorized officials from a country because load identity the holder and applies For do journey between countries, requires effort enforcement law covering supervision towards the person who enters or to outside the territory of the Republic of Indonesia and supervision of foreigners in the territory of the Republic of Indonesia. The role of society is very necessary For support effort enforcement law that can realized with action give information and/ or report existence abuse state documents and documents other For to enforcer law or authorities, incl involvement apparatus the government with on purpose help abuse state documents and documents others that can classified as act criminal immigration. The existence of documents immigration can created, stored, falsified and misused For interest self Alone or other people, even can used For make it easier the occurrence act criminal such as; terrorism, corruption, human trafficking, narcotics and psychotropics, smuggling timber and people smuggling and crime criminal other. Types forgery passport or normal called *document fraud* that is:

1. Forged whole (imitated);
2. Forged some (only changed part Photo or identity);
3. Passport original However used not by that person However used by others (face) similar;

Development in the field law, in particular development law criminal, no only covers development structural, namely development institutions law in motion in a mechanism, but also must covers development substantial in the form of product which is results from system law in the form of regulations law criminal and development cultural, namely attitudes and values that influence coming into effect system law the (Jaya, 2005).

Efforts to law, also known as as law criminal, is one of the from that's all Lots efforts that focus on aspects social from effort For to obtain law. This is because objective purpose is For helping people achieve the purpose since beginning. However, the policy also involves acquisition law and, more special again, offer social, such as use source Power rational For helping people achieve its purpose. Policy terms referring to reality

that application of criminal (law) is not a must itself. The Indonesian government has set policy known social with policy social with objective For reach policy welfare social (*social welfare policy*) and policy defense social (*social defense policy*) for the purpose of fulfil needs and aspirations resident) (Arief, 2001).

For reach progress social, necessary done efforts prevention and control that has not been There is or Not yet formed. When used in the relationship with arrangement criminal, thing This known as act criminal or crime Because involving use punishment or means law criminal, and also known as part from policy law criminal (*corrective strategy*) (Arief, 2003).

Therefore that , if a particular strategy For at any time will used, then law the criminal law used in matter This is a steps to be taken analyzed and interpreted so that efforts countermeasures crime the can estimated with the most accurate way maybe. Use law criminal as a strategy for educate public about threats and/ or disturbance crime is one of form policy justice criminal, namely use strength racial for promote crime.

According to Barda Nawawi Arief, efforts countermeasures crime shared into two, namely crime countermeasures through penal measures in the form of action like arrest / seizure carried out after the occurrence crime (Arief, 2010). When crime finished, the term penalty was first mentioned in characteristic repressive (oppression, eradication, or suppression), while the term non-penal was first mentioned in characteristic preventive (prevention, or deterrence). Repressive nature seen difference from difference in a way wide, because action repressive in essence is action oppression, eradication, or crackdown (Sudarto, 1986).

Efforts prevention and control act criminal or actual crime or potential happen is one of the method used For push policy defense social. In terms of This called act criminal or crime in context *criminal policy* Because concerning use means law criminal (*penal*), and also known as part from policy law criminal (*penal policy*). In history birth prevention and control before birth Law No. 9 of 1992 concerning Immigration, only the only one regulations that are special arrange prevention and control in a way firm and clear is Regulation of the Minister of Justice Republic of Indonesia No: M. 03 UM. 09.01 of 1981 concerning Prevention and Control. With thus can it is said that birth prevention and control during the independence period For First time is since issuance Regulation of the Minister of Justice the.

Prevention and Control According to Regulation of the Minister of Justice Republic of Indonesia Number M.03.09.01 of 1981, which means with prevention in regulation This is prohibition to Indonesian citizens and foreign citizens For do journey go out from the territory of the Republic of Indonesia. While what is meant with deterrence is prohibition towards foreigners For do journey enter to the territory of the Republic of Indonesia.

Foreign citizens therefore reasons certain, such as attitude hostility towards the people and the Republic of Indonesia, to temporary time can charged action deterrence enter to the territory of the Republic of Indonesia. While for Indonesian citizens in principle applicable principle that every citizen The Republic of Indonesia has the right go out or enter the territory of the Republic of Indonesia. However with reasons certain and for term time certain Indonesian citizens can prevented go out or warded off enter to the territory of the Republic of Indonesia.

Remember that deterrence in essence intended to foreign citizens, then deterrence to Indonesian citizens only charged in very special circumstances. Namely charged faced Indonesian citizens who have left Indonesia for a long time, live settle down or become

residents of other countries and do action or behave hostile, towards the State and Government Republic of Indonesia. Prevention to Indonesian citizens can also charged with consideration that if the Indonesian citizen in question enter to the territory of the Republic of Indonesia is estimated will bother the way development national, giving rise to split nation, disturbing stability national, or can cause threat to self Alone or his family. So that the implementation of the imposition of deterrence on Indonesian citizens is carried out very carefully and very selectively.

In the discussion, Immigration Administrative Actions are regulated in Article 75 of Law Number 6 of 2011 concerning Immigration. Article 75 number 1 states that Immigration Officers are authorized to carry out Immigration Administrative Actions against Foreigners in the Territory of Indonesia who carry out dangerous activities and are suspected of endangering public security and order or do not respect or do not comply with laws and regulations. The purpose of Immigration Actions as stipulated in Article 1 (31) of Law Number 6 of 2011 concerning Immigration is administrative sanctions determined by Immigration Officers. This is done against Foreigners outside the judicial process. Administrative Actions in the field of immigration are outside the judicial process. Thus, Foreigners who commit violations as referred to in Article 8 and Article 9 can be subject to administrative actions outside the judicial process. Article 75 number 2 also states that Administrative Immigration Actions as referred to in paragraph (1) may be in the form of inclusion in the Prevention or Deterrence list, restriction, change, or cancellation of Residence Permit, prohibition to be in one or several specific places in the Territory of Indonesia, requirement to reside in a specific place in the Territory of Indonesia, imposition of a burden fee, and/or Deportation from the Territory of Indonesia. This is regulated in Article 75 number 3 of Law Number 6 of 2011. Administrative Immigration Actions in the form of Deportation may also be carried out against Foreigners who are in the Territory of Indonesia because they are trying to avoid threats and the implementation of punishment in their country of origin. In addition, based on Article 78 of Law Number 6 of 2011, administrative actions are taken for those who violate residence permits. Foreigners holding residence permits whose validity period has expired and are still in Indonesian territory for less than 60 (sixty) days from the residence permit deadline are subject to a fee in accordance with the provisions of laws and regulations. Foreigners who do not pay the fee as referred to in paragraph (1) are subject to Immigration Administrative Actions in the form of deportation and deportation. Foreigners holding residence permits whose validity period has expired and are still in Indonesian territory for more than 60 (sixty) days from the residence permit deadline are subject to Immigration Administrative Actions in the form of deportation and deportation.

Prevention and deterrence that can be carried out by immigration to prevent immigration violations. "According to the provisions of Article 1 of Law Number 6 of 2011 concerning Immigration, what is meant by prevention is a temporary prohibition on certain people from leaving the territory of Indonesia for certain reasons. While deterrence is a temporary prohibition on certain people from entering the territory of Indonesia for certain reasons."

The implementation of prevention and deterrence is the authority of the Ministry of Law and Human Rights issued through the Directorate General of Immigration. In addition, requests for prevention and deterrence according to the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Article 2 can be carried out by:

1. Chairman Supreme Court ;

2. Minister of Defense and Security;
3. Attorney General;
4. Head of Coordinating Body State Intelligence or officials appointed by the Chairman Supreme Court, Minister of Defense and Security and the Attorney General and submitted to the Minister of Law and Human Rights.

Based on Article 17 of the Law Number 6 of 2011 Concerning Immigration deterrence towards foreigners done Because things as following:

1. Known or suspected of being involved with an international crime syndicate;
2. When in one's own country or in another country, one acts hostilely towards the Indonesian Government or carries out acts that tarnish the good name of the Indonesian nation and state;
3. Suspected of committing acts contrary to public order and security, morality, religion and the customs of the Indonesian people;
4. At the request of a country, a foreigner who is trying to avoid the threat and execution of punishment in that country for committing a crime which is also punishable by law in force in Indonesia;
5. Once expelled or deported from the territory of Indonesia;
6. related reasons with regulated immigration more carry on with Regulation Government.

Arrangement prevention and control in Constitution Immigration especially towards foreigners is in accordance with wisdom government in the field of immigration that adheres to principle *selective policy* that is a policies that are based on principles that are selective. based on principle this, only foreigners can give benefit for the welfare of the people, nation and state of the Republic of Indonesia and No endanger security and order as well as No hostile Good towards the people and the Unitary State The Republic of Indonesia which is based on Pancasila and the 1945 Constitution of the Republic of Indonesia which is permitted enter and to outside the territory of Indonesia. Foreigners with reason certain like attitude hostility towards the people and the Republic of Indonesia to temporary time can warded off enter to the territory of Indonesia. This is also applies to Indonesian citizens who reason certain ones can also prevented For to outside the territory of Indonesia in term time certain.

The mitigation efforts undertaken Directorate General Immigration For prevent the occurrence forgery passports by foreign citizens in the jurisdiction of Indonesia, namely:

- a. Give training technical to officer immigration to be able to identify use passport false in frame prevention foreigner entry with use passport false.
- b. Cooperating with Interpol in the form of integrating the Interpol database and immigration crossing data from the Directorate General of Immigration.
- c. Increasing law enforcement efforts through the judicial process (*projustisia*) for foreigners who commit the crime of passport forgery.
- d. Cooperate with the government of the country whose citizens are recorded as the perpetrators of the most passport forgeries when entering Indonesian territory to find out the security features and differences between genuine passports and passports forged from that country.

The security features use the safest technology that meets international standards with the following provisions:

- 1) contrast color exchange effect between the text "IDN";
- 2) fine lines inside the star ornament and will appear to move around and appear bright;

- 3) the effect of changing the size of the star and komodo ornaments if the object is moved left and right in a vertical position;
- 4) the image of a Komodo dragon and the text "IDN" which appears to move regularly and sequentially when tilted left and right;
- 5) the color of the "IDN" text image will appear alternate with the background color when viewed at a certain angle;
- 6) image of a Komodo dragon that appears grey from all angles;
- 7) image of the symbol of the Unitary State of the Republic of Indonesia, namely the Garuda Pancasila, and the text "NKRI";
- 8) the image of the Garuda Pancasila wings will look like glass and appear dark from all directions of view, if tilted to the left and right;
- 9) the text "REPUBLIC OF INDONESIA" and the logo of the Directorate General of Immigration which appears bright and colored when moved left and right;
- 10) the contour lines of the Directorate General of Immigration logo will appear to enlarge and shrink, if tilted left and right;
- 11) image of 5 (five) ornaments in the machine readable zone area;
- 12) micro-sized text that is intentionally reversed at certain positions;
- 13) micro-sized text that can only be seen with the aid of a tool such as a magnifying glass;
- 14) the text "DIRECTORATE GENERAL OF IMMIGRATION" in nano size located in the image area of the National Emblem of the Republic of Indonesia which can only be seen with the aid of a microscope;
- 15) nano-sized images that can only be seen with the aid of a tool such as a microscope; and
- 16) nano-sized text that is intentionally flipped at certain positions

CONCLUSION

Enforcement law on action crimes committed by foreign citizens include two things namely administrative action immigration and immigration actions in form act criminal immigration in a way legislation / litigation or court proceedings. Enforcement law against foreigners who use it passport false for enter and/ or go out from the territory of Indonesia in the Decision Number 126/ Pid.Sus /2021/PT.BTN and Decision Number 1234/ Pid.Sus /2020/PN JKT.SEL, using Court process action, then can known that act criminal immigration is act criminal acts regulated by law alone that is Constitution Number 6 of 2011 concerning Immigration. In the law the has set up types included act criminal immigration including sanctions the criminal penalty imposed to violation immigration the.

The mitigation efforts undertaken Directorate General Immigration For prevent the occurrence forgery passports by foreign citizens in the jurisdiction of Indonesia, namely:

- 1) Give training technical to officer immigration to be able to identify use passport false in frame prevention foreigner entry with use passport fake. Cooperating with Interpol in the form of integration of Interpol database and immigration crossing data of the Directorate General of Immigration.
- 2) Increasing law enforcement efforts through the judicial process (projustisia) for foreigners who commit the crime of passport forgery.
- 3) Cooperate with the government of the country whose citizens are recorded as the perpetrators of the most passport forgeries when entering Indonesian territory to find

out the security features and differences between genuine passports and passports forged from that country.

REFEERENCES

- A Glance at Indonesian Immigration. (n.d.). *Book 50 Years of Memories Immigration*.
Anis Ibrahim. (2007). *Reconstructing the Science of Law & Law of the Third Millennium*.
Malang: In-Trans.
- Arief, B. N. (2001). *Problems of Law Enforcement and Crime Prevention Policy*.
Bandung: PT Citra Aditya Bakti.
- Arief, B. N. (2003). *Selected Chapters on Criminal Law*. Bandung: Citra Aditya Bakti.
- Arief, B. N. (2010). *Bunga, Collection of Criminal Law Policies (Development of the
Drafting of the New Criminal Code Concept)* (1st ed.). Jakarta: Kencana Prenada
Media.
- Constitution Number 06 of 2011 concerning Immigration.
Criminal Code.
- Fajarianto, O., Setiyowati, A. J., Fadhli, M., Adi, E. P., Prastiawan, A., Hasanah, W., ...
& Ismail, A. (2024, October). Development of a Flipbook Based on a Knowledge
Management System to Improve the Integrity Character of Education Personnel in
Tertiary Institutions. In *2024 10th International Conference on Education and
Technology (ICET)* (pp. 32-35). IEEE.
- Ferry Tri Ardiansyah, et al. (2016). *Immigration on Imaginary Borders*. Jakarta: Short
Story Team.
- Nyoman Serikat Putra Jaya. (2005). *The Relevance of Customary Criminal Law in the
Reform of National Criminal Law*. Bandung: PT Citra Aditya Bakti.
- Saleh, J. S. (2008). *Immigration Security and Intelligence*. Jakarta: Directorate General
of Immigration, Department of Law and Human Rights.
- Sudarto. (1986). *Selected Chapters on Criminal Law*. Bandung: Alumni.
- The 1945 Constitution of the Republic of Indonesia.
- Usman, H., Yarmi, G., Sarifah, I., Hasanah, U., Wardhani, P. A., Sari, W. K., &
Fajarianto, O. (2024). Explore the Needs of Competency Development Model for
Prospective Elementary School Teachers Based on Knowledge Management
System In Indonesia. *Revista de Gestão Social e Ambiental*, 18(1), e06206-e06206.
- Yudha Bhakti. (2003). *International Law: An Anthology*. Bandung: Alumni.