

**PENEGAKAN HUKUM TERHADAP ORANG ASING PENGGUNA  
PASPOR PALSU DI WILAYAH INDONESIA  
(ANALISIS PUTUSAN NOMOR : 100/PID.B/2016/PN.JKT.SEL)**

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**Abstrak**

Keaslian dan kebenaran paspor orang asing di Indonesia sangat penting dalam rangka melindungi masyarakat dan negara dari segala kriminal yang mengancam keamanan dan keutuhan kedaulatan negara Indonesia. Penegakan hukum terhadap penggunaan paspor palsu di wilayah Indonesia oleh orang asing sangat penting karena penentuan suatu kasus kejahatan atau pelanggaran keimigrasian dapat diselesaikan dengan proses hukum pidana atau administratif agar dapat terwujudnya proses penyelesaian perkara keimigrasian secara cepat, efektif dan efisien, untuk itu dalam hal ini bagaimanakah konsep pemidanaan terhadap orang asing yang menggunakan paspor palsu menurut Peraturan Perundang-Undangan dan apakah putusan Hakim dalam praktik Pengadilan terhadap orang asing pengguna paspor palsu telah sesuai dengan Peraturan Perundang-Undangan yang berlaku. Penelitian ini menggunakan pendekatan yuridis normatif dan spesifikasi penelitian berdasarkan atas data sekunder. Hasil penelitian menunjukkan, Tindak Pidana Keimigrasian lebih menerapkan penyelesaian administratif, karena keimigrasian masuk dalam keluarga Hukum Administratif sehingga, sanksi pidana bersifat *Ultimum Remidium* yang bersifat eksepsional dan kasuistis, dengan ancaman dan penjatuhan pidana cenderung ringan. Pemidanaan dapat dilakukan sepanjang memenuhi unsur-unsur tindak pidana baik menurut Undang-undang Keimigrasian maupun KUHP, mengingat bahwa KUHP merupakan *lex generalis* dari Undang-Undang Keimigrasian sebagai *lex specialis*. Selain penegakan hukum secara pidana, juga dilakukan penyelesaian perkara secara administratif disebut Tindakan Administrasi Keimigrasian (TAK) yang berupa, pemulangan orang asing ke negara asalnya (deportasi) dan pencekalan, Karantina dalam Rumah Detensi atau Ruang Detensi.

Kata Kunci : penegakan hukum, orang asing pengguna paspor palsu di wilayah Indonesia

# ENFORCEMENT OF LAW ON FOREIGN PEOPLE USING FAKE PASSPORT IN INDONESIA

(ANALYSIS OF DECISION NUMBER : 100/PID.B/2016/PN.JKT.SEL)

## *Abstract*

*The authenticity and truth of the passports of foreigners in Indonesia is very important in order to protect the public and the state from all crimes that threaten the security and integrity of the sovereignty of the Indonesian state. Law enforcement on the use of fake passports in the territory of Indonesia by foreigners is very important because the determination of an immigration crime or violation case can be solved by criminal or administrative legal process so that the immigration process can be resolved quickly, effectively and efficiently, how in this case the concept of conviction of foreigners who use fake passports according to the Laws and regulations and whether the Judge's decision in the practice of the Court against foreigners using fake passports is in accordance with the applicable Laws and Regulations. This study uses a normative juridical approach and research specifications based on secondary data. The results of the study show that Immigration Crime is implementing an administrative settlement, because immigration is included in the family of Administrative Law so that criminal sanctions are *Ultimum Remidium* which is exceptional and casuistic, with threats and criminal penalties tending to be mild. Criminalization can be carried out as long as it fulfills the elements of a criminal offense both according to the Immigration Law and the Criminal Code, given that the Criminal Code is a *lex generalis* from the Immigration Act as *lex specialis*. In addition to criminal law enforcement, administrative settlement is also called the Immigration Administration Act (TAK) in the form of returning foreigners to their home countries (deportation) and banning, Quarantine in Detention Houses or Detention Rooms.*

*Keywords: Law enforcement, foreigners using fake passports in the territory of Indonesia*