

Implementation of visa-free visit policy based on Presidential Regulation Number 21 of 2016 concerning Visa-Free Visits for Foreign Nationals

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ABSTRACT

With the beginning of the current era of globalization, there are no more boundaries that can separate one country from another. In order to increase the country's foreign exchange and also improve the working relationship of the Indonesian state with other countries, the Indonesian government enforces the Visa-Free Visit Policy. One form of policy issued by the Indonesian government is outlined in Presidential Regulation Number 21 of 2016 concerning visa-free visits that have been implemented in Indonesia on March 2016 which applies to 169 countries. The purpose of writing this article is to provide information related to the enactment of Presidential Regulation Number 21 of 2016 in Indonesia. In this article there are 2 (two) problems that will be discussed, namely the purpose of the enactment of Presidential Regulation Number 21 of 2016 concerning Visa-Free Visits and the effectiveness of the implementation of Presidential Regulation Number 21 of 2016 concerning Visa-Free Visits in Indonesia. The research method used is the Qualitative method. The results showed that the purpose of the enactment of Presidential Regulation Number 21 of 2016 concerning visa-free visits is to increase the country's foreign exchange, especially in terms of the economy to improve the structure of trade and the impact caused by the existence of this Regulation, namely the abuse of residence permits, document forgery, cyber crime, trafficking in persons, terrorism threats, drug smuggling, and also a decrease in the amount of PNBPN every year, so that it has not been maximized in its application in Indonesia. It can be seen that the implementation of Presidential Regulation Number 21 of 2016 concerning Visa-Free Visits in Indonesia has not been effective and the government must review the policy of BVK so that the expected goals can be realized. And also the government must have other strategies to be able to overcome this problem.

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I. INTRODUCTION

To be able to enter the territory of the Unitary State of the Republic of Indonesia, a Foreign Citizen (WNA) has several obligations regulated in Law Number 6 Year 2011. Along with the increasing mobility of life in the era of globalization, the standard of social life has increased. So that to meet economic needs and a decent life a person will definitely look for the best job even if he uses any means that violates the

rules set by his country¹ (Riza et al., 2022). With this development, there are various impacts, both positive and beneficial as well as negative and detrimental to the life of the nation and state of the Indonesian republic, so that there is a need for policies that regulate to ensure legal certainty.

With the beginning of the current era of globalization, there are no more boundaries that can separate one country from another. In order to increase the country's foreign exchange and also improve the working relationship of the Indonesian state with other countries, the Indonesian government enforces the Visa-Free Visit Policy (gita nurkhasanah, 2021). The visa policy itself is a rule on who may or may not enter the country. Most visa policies are bilateral which means two countries have both allowed their respective citizens to travel without a visa although this rarely happens. Many countries have visa restrictions to check and control the entry and exit of foreign nationals and also to prevent illegal immigrants and crime. (Riza et al., 2022)

One form of policy issued by the Indonesian government is to provide visa-free short visits to foreign nationals as outlined in Presidential Regulation Number 21 of 2016 concerning visa-free visits that have been implemented in Indonesia on March 10, 2016 which applies to 169 countries. (Andi Ika, 2018). This is a political immigration policy influenced by economic factors in order to invite many tourists, foreign investors and investors with the aim of fulfilling the government's role as a facilitator of development (syakir, 2020)

And the impact of the implementation of a visa-free visit policy to 169 countries certainly opens up opportunities for foreign tourists to visit Indonesia without having to register at the Representative of the Republic of Indonesia or pay a visa upon arrival to enter Indonesia. After the enactment of Presidential Regulation Number 21 of 2016 concerning visa-free visits, the flow of tourist crossings to enter and exit Indonesia has increased dramatically (Hamdi, 2019).

It can be seen from the data from the Central Bureau of Statistics that the number of foreign tourist visits (foreign tourists) to Indonesia during 2022 reached 5.47 million visits, an increase of 251.28 percent compared to the number of foreign tourist visits in 2021. Of this number, 75.80 percent (4.15 million visits) came to Indonesia through the main entrance. The number of visits through the main entrances consists of foreign tourists with air transportation modes totaling 3.30 million visits; sea transportation modes totaling 802.50 thousand visits; and land transportation modes totaling 48.48 thousand visits. The number of foreign tourist visits to Indonesia in December 2022 reached 895.12 thousand visits, an increase of 447.08 percent compared to the number of foreign tourist visits in December 2021. When compared to November 2022, the number of visits in December 2022 increased by 36.19 percent. The number of foreign tourist visits in December 2022 consisted of foreign tourists visiting through the main entrance of 767.17 thousand visits and border entrances of 127.95 thousand visits.

In accordance with Article 8 paragraph (2) of Law Number 6 Year 2011 on Immigration which states "Every foreigner who enters the territory of Indonesia must have a valid and still valid visa, unless otherwise determined based on this law and international agreements (Tanonggi et al., 2021). From here it can be seen that in accordance with immigration regulations every foreigner who will enter and exit the territory of Indonesia must have a valid travel document, which is an official document issued by an authorized official of a country that contains the identity of the holder and is valid for travel between countries, if the foreigner does not have a valid document (passport) and is still valid, then it is not allowed to enter Indonesian territory (syakir, 2020).

According to Andi and friends with a journal entitled Analysis of the Short Visit Visa Free Policy (BVKS) Towards the Tourism Sector in Makassar City by discussing issues related to the Visit Visa Free Policy towards Increasing Foreign Tourists and the Implications of the Visit Visa Free Policy on Foreign Tourist Statistics in Makassar City. This study produces a result that the government's efforts to increase foreign tourist visits are by implementing a visa-free visit policy with the aim of increasing foreign exchange and immigration as an agency that has the authority to handle residence permits for foreign nationals get a big impact because foreign national visits increase every year. This National Policy must be balanced with the Makassar City government's strategy in maximizing its tourism potential so that foreign tourist visits can continue to increase and can compete with tourist attractions located in other cities in Indonesia. Formulation of local regulations is also needed so that the impact of the Short Stay Visa Free Policy has a positive impact on a wider scale.

According to research from Syakir with a journal entitled Application of Presidential Regulation of the Republic of Indonesia Number 21 of 2016 concerning Visa-Free Visits to Indonesia Against 169 Countries. By examining the formulation of the problem of understanding immigration in general and the impact of the enactment of Presiden Regulation number 21 of 2016 concerning visa-free visits. By producing a discussion to meet the number of tourists visiting Indonesia, the Indonesian Government through the Ministry of Tourism targets every year there must be an increase of at least 3.5 million tourists

per year. Since the enactment of presidential regulation number 21 of 2016 has increased 97% along with the number of tourists whocome.

In this case, the problems that arise as a result of granting visa-free visits granted to foreign nationals are often misused by irresponsible parties and are not in accordance with the granting of residence permits granted (Andi Ika, 2018). Explained in Article 4 paragraphs (1) and (2) of Presidential Regulation Number 21 of 2016 concerning Visa-Free Visits which reads "The recipient of a Visa-Free Visit is granted a visit stay permit for a maximum period of 30 (three hundred) days and the visit stay permit cannot be extended its validity period or converted into another residence permit (*PERATURAN PRESIDEN NOMOR 21 TAHUN 2016 TENTANG BEBAS VISA KUNJUNGAN*, n.d.).

II. RESEARCH PROBLEMS

- A. What is the purpose of the enactment of Presidential Regulation No. 21 of 2016 on visa-free visits?
- B. How is the effectiveness of the implementation of Presidential Regulation Number 21 of 2016 visa-free visits in Indonesia?

III. RESEARCH METHODS

The writing of this article uses normative juridical research (legal research) through a statutory approach (statue approach), namely by examining the laws and regulations related to the legal issues under study. So that the data used by researchers is secondary data consisting of primary legal sources, namely Presidential Regulation Number 21 of 2016 concerning Visa-Free Visits and Law Number 16 of 2011 concerning Immigration and secondary legal sources that can help analyze and understand primary legal materials in the form of scientific works of scholars, research results, journals, and so on. In addition, there are sources of tertiary legal materials that can support primary and secondary legal materials such as legal dictionaries, encyclopedias, KBBI, and books on terms that are often used regarding visa-free policies.

IV. RESULT AND DISCUSSION

A. The purpose of the enactment of Presidential Regulation of the Republic of Indonesia Number 21 Year 2016 on Visa-Free Visits

A little review related to the history of visa-free visit in Indonesia, along with the times, the Presidential Regulation on the Visa-Free Visit Policy given to foreign nationals has undergone many changes. The changes that occur depend on the leadership period of each Indonesian president. What is meant in this change is the addition of a list of countries receiving the Visa-Free Visit Policy. The Visa-Free Visit Policy in Indonesia began in the New Order Government (gita nurkhasanah, 2021). The first visa-free visit policy issued by the Indonesian government in Presidential Decree Number 18 of 2003 was to 11 (eleven) countries. In less than a year, Presidential Decree Number 43 of 2011 j.o Presidential Decree Number 18 of 2003 concerning the Third Amendment to Presidential Decree Number 18 of 2003 concerning Visa-Free Visits granted to 15 countries, namely ASEAN Member States and Special Administrative Countries, after 12 years, Presidential Decree Number 69 of 2015 concerning Visa-Free Visits granted to 45 countries, and then Presidential Decree Number 104 of 2015 concerning Visa-Free visits to 90 countries.

There are 2 (two) basic considerations underlying the establishment of Presidential Regulation of the Republic of Indonesia Number 21 Year 2016 which is given based on the principle of benefit and the principle of reciprocity in accordance with the consideration letter a, namely as follows:

1. That in order to improve the relations of the Republic of Indonesia with other countries, it is necessary to provide convenience for foreign nationals of countries, governments of special administrative regions of a country, and certain entities to enter the territory of the Republic of Indonesia which is implemented in the form of exemption from the obligation to have a visit visa by taking into account the principles of reciprocity and benefits.
2. To provide more benefits to improve the economy in general and increase the number of foreign tourist visits in particular, it is necessary to adjust the number of countries, governments of special administrative regions of a country, and certain entities that are granted exemption from the obligation to have a visit visa.

It can be concluded from these 2 (two) bases that the purpose of the establishment of this Regulation is to provide more benefits in improving the economy in general and increasing the number of foreign tourists visiting the Indonesian Territory. The government expects that the enactment of Presidential Regulation No. 21/2016 on Visa-Free Visits can improve the country's balance sheet in terms of the economy because it can be

seen that if more foreign tourists visit Indonesia, it greatly affects the country's income so that it can increase the country's foreign exchange. With the granting of this visa-free, the government sees that this is a huge opportunity and the easiest way to invite foreign tourists to visit the Indonesian Territory (syakir, 2020).

Basically, this BVK policy must be reciprocal so that it can be said that only other countries whose welfare is equivalent to Indonesia deserve to be granted. Meanwhile, for poor countries, the visa policy is still applied. The destination country for visa-free visits must be based on the law by continuing to prioritize state sovereignty, taking into account the principle of selective policy (the principle of benefit) where only foreign nationals who provide benefits to Indonesia are allowed to enter Indonesian territory, and also the application of the principle of reciprocity. Considering sovereignty, the principle of benefits, and the principle of reciprocity is very important because the addition of countries that get visa-free visits will increase the number of violations that have the potential to have a negative impact on Indonesia.

(Source : [Tinjauan Kebijakan Bebas Visa Kunjungan bagi 169 Negara | POLTEKIM-HUB \(wordpress.com\)](https://www.poltekim-hub.com))

Based on Presidential Regulation of the Republic of Indonesia Number 21 of 2016 concerning Visa-Free Visits (BVK) is applied to 169 countries that have the aim to benefit the country by increasing the number of foreign tourists to the territory of Indonesia. The following is a list of Countries Receiving Visit Visa Free Facilities according to Presidential Regulation Number 21 of 2016 concerning Visit Visa Free:

1. South Africa, 2. Albania, 3. Algeria, 4. United States, 5. Andorra, 6. Angola, 7. Antigua and Barbuda, 8. Saudi Arabia, 9. Argentina, 10. Armenia, 11. Australia, 12. Austria, 13. Azerbaijan, 14. Bahamas, 15. Bahrain, 16. Bangladesh, 17. Barbados, 18. Netherlands, 19. Belarus, 20. Belgium, 21. Belize, 22. Benin, 23. Bhutan, 24. Bolivia, 25. Bosnia & Herzegovina, 26. Botswana, 27. Brazil, 28. Brunei Darussalam, 29. Bulgaria, 30. Burkina Faso, 31. Burundi, 32. Czech Republic, 33. Chad, 34. Chile, 35. Denmark, 36. Dominica (Commonwealth), 37. Ecuador, 38. El Salvador, 39. Estonia, 40. Fiji, 41. Philippines, 42. Finland, 43. Gabon, 44. Gambia, 45. Georgia, 46. Ghana, 47. Grenada, 48. Guatemala, 49. Guyana, 50. Haiti, 51. Honduras, 52. Hungary, 53. Hong Kong, 54. India, 55. United Kingdom, 56. Ireland, 57. Iceland, 58. Italy, 59. Jamaica, 60. Japan, 61. Germany, 62. Cambodia, 63. Canada, 64. Kazakhstan, 65. Kenya, 66. Marshall Islands, 67. Solomon Islands, 68. Kiribati, 69. Comoros, 70. South Korea, 71. Costa Rica, 72. Croatia, 73. Cuba, 74. Kuwait, 75. Kyrgyzstan, 76. Laos, 77. Latvia, 78. Lebanon, 79. Lesotho, 80. Liechtenstein, 81. Lithuania, 82. Luxembourg, 83. Macao, 84. Madagascar, 85. Macedonia, 86. Maldives, 87. Malawi, 88. Malaysia, 89. Mali, 90. Malta, 91. Morocco, 92. Mauritania, 93. Mauritius, 94. Mexico, 95. Egypt, 96. Moldova, 97. Monaco, 98. Mongolia, 99. Mozambique, 100. Myanmar, 101. Nambia, 102. Nauru, 103. Nepal, 104. Nicaragua, 105. Norway, 106. Oman, 107. Palau, 108. Palestine, 109. Panama, 110. Côte d'Ivoire, 111. Papua New Guinea, 112. Paraguay, 113. France, 114. Peru, 115. Poland, 116. Portugal, 117. Puerto Rico, 118. Qatar, 119. Dominican Republic, 120. Romania, 121. Russia, 122. Rwanda, 123. St. Kitts & Nevis, 124. St. Lucia, 125. St. Vincent & the Grenadines, 126. Samoa, 127. San Marino, 128. Sao Tome & Principe, 129. New Zealand, 130. Senegal, 131. Serbia, 132. Seychelles, 133. Singapore, 134. Cyprus, 135. Slovakia, 136. Slovenia, 137. Spain, 138. Sri Lanka, 139. Suriname, 140. Swaziland, 141. Sweden, 142. Switzerland, 143. Taiwan, 144. Tajikistan, 145. Vatican, 146. Cape Verde, 147. Tanzania, 148. Thailand, 149. Timor Leste, 150. Togo, 151. Tonga, 152. Trinidad & Tobago, 153. Tunisia, 154. Turkey, 155. Turkmenistan, 156. Tuvalu, 157. Uganda, 158. Ukraine, 159. UAE, 160. Uruguay, 161. China, 162. Uzbekistan, 163. Vanuatu, 164. Venezuela, 165. Vietnam, 166. Jordan, 167. Greece, 168. Zambia, and 169. Zimbabwe (syakir, 2022).

Statistical data on the number of foreign tourist visits



Source: kementerian pariwisata dan ekonomi kreatif

2021 Foreign Tourist Visit Statistics

In December 2021, foreign tourist visits through all entrances amounted to 163,619 visits or decreased by -0.28% compared to December 2020 which amounted to 164,079 visits. Based on nationality, the number of foreign tourist visits in December 2021 at all entrances recorded the highest number of visits, namely:

1. Timor Leste as many as 84,975 visits.
2. Malaysia with 48,728 visits.
3. Papua New Guinea as many as 4,880 visits.
4. China with 4,513 visits.
5. Russia as many as 2,324 visits.

Meanwhile, the number of foreign tourists in 2021 at all entrances when compared to December 20210 was recorded based on the nationality that experienced the highest growth, namely:

1. Papua New Guinea by 220.00%
2. Kuwait by 162.50%
3. Hong Kong by 138.10%
4. Vietnam by 53.04%
5. Japan by 27.71%

B. The effectiveness of the implementation of Presidential Regulation No. 21/2016 on visa-free visits in Indonesia

The implementation of this visa-free visit policy is thought to have a detrimental impact on Indonesia, and it is feared that it can interfere with the creation of conducive law enforcement in Indonesia with many violations committed by foreign nationals in the Indonesian Territory including abuse of residence permits, document forgery, cyber crime, trafficking in persons, threats of terrorism, drug smuggling and can also be violations that can be brought to the criminal realm. With the strategic geographical location of Indonesia as a world trade traffic flow and as an archipelagic country, this becomes a challenge as well as a threat due to the entry of foreigners who are not wanted and do not have clear documents or identities for themselves that can interfere with state security and law enforcement in this country.

Indonesia itself has 196 (one hundred ninety six) entry points consisting of 130 (one hundred thirty) Immigration Checkpoints (TPI) and 66 (sixty six) Cross Border Posts (PLB) which are used as traditional crossings based on agreements between the two countries. If it is seen that there are foreign nationals whose countries get visa-free visit facilities, they can enter the Indonesian Territory through 130 (one hundred and thirty) immigration checkpoints spread throughout Indonesia. It can be seen that the number of entry points is a challenge for law enforcement officials, especially immigration. Not only immigration but also other agencies to cooperate in the field of supervision to monitor the activities carried out by foreign nationals in Indonesia (syakir, 2022)

Not only that, another negative impact arising from the implementation of Visa-Free Visits for 169 countries is the reduction of Non-Tax State Revenue (PNBP) generated from visit visa fees both visit visas issued by Representatives of the Republic of Indonesia abroad and Visa on Arrival Visas that can be obtained at designated immigration checkpoints. The Directorate General of Immigration of the Ministry of Law and Human Rights noted that the visa-free policy for foreign nationals has reduced PNBP revenue by 52% or equivalent to IDR 1 Trillion in 2016 and previously IDR 2 Trillion in 2015. (Intan Nurkumalaswati, 2018)

After the enactment of Presidential Regulation No. 21/2016 on Visa-Free Visits, there was a significant decrease in immigration non-tax revenue (PNBP). With the amount of the upper rate of PNBP, the Directorate General of Immigration should not experience high fluctuations in non-tax revenue (PNBP) every year. The government says that the decline in PNBP from visas can be covered by increasing PNBP from other sectors, especially the Tourism Sector, but this decline is very much felt by the Directorate General of Immigration. (Intan Nurkumalaswati, 2018)

It can be said that the purpose of the implementation of this Visa-Free Visit is to improve the economy of the Republic of Indonesia has not been achieved. Evidenced by the decrease in PNBP every year. This proves that its application in Indonesia has not been effective and the government must review the policy of this BVK so that the expected goals can all be realized. And also the government must have another strategy to be able to overcome this problem. (syakir, 2022)

V. CONCLUSION

This visa-free visit policy is the government's effort to increase foreign exchange by providing easy access for foreign tourists. The government expects that the enactment of Presidential Regulation No. 21/2016 on Visa-Free Visits can improve the country's balance sheet in terms of the economy because it can be seen if more and more foreign tourists. With this, the government sees that this is one of the easy

opportunities to attract foreign tourists to visit Indonesia. But the government is not arbitrary to provide facilities to other countries, this BVK policy must be reciprocal so that it can be said that only other countries whose welfare is equivalent to Indonesia deserve to be given. Meanwhile, for poor countries, the visa policy is still applied.

The impact of the implementation of visa-free visits in Indonesia is feared to disrupt the creation of conducive law enforcement in Indonesia with many violations committed by foreign nationals in the Indonesian Territory including abuse of residence permits, document forgery, cyber crime, trafficking in persons, terrorism threats, drug smuggling and can also be violations that can be brought to the criminal realm. Not only that, this application also has an impact on a significant decrease in immigration Non-Tax State Revenue (PNBP) from year to year. And here Indonesia has 196 entrances consisting of 130 (one hundred and thirty) Immigration Checkpoints (TPI) and 66 (sixty-six) Cross Border Posts (PLB). From this explanation, it can be seen that this regulation is still not effective in its implementation, there is still a need for a reassessment by the government to maximize the implementation of this regulation.

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