

REGULATION OF DIRECTOR GENERAL OF IMMIGRATION
NUMBER IMI-0352.GR.02.07 (2016)

ON
THE HANDLING OF ILLEGAL MIGRANT CLAIMING TO BE ASYLUM-SEEKER
OR REFUGEE

UPON THE GRACE OF GOD ALMIGHTY

DIRECTOR GENERAL OF IMMIGRATION,

- To consider : a. that the handling of illegal migrant claiming to be asylum-seeker or refugee in Indonesian territory should be integrated and sustainable to anticipate (mitigate) the risk in the field of ideology, politics, law, economy, social cultural, and national security;
- b. that based on the consideration mentioned in paragraph (a), the need to issue the Regulation of Director General of Immigration on the Handling of Illegal Migrant Claiming to be Asylum-Seeker or Refugee;
- To remember : 1. Law Number 6 Year 2011 on Immigration (State Gazette of the Republic of Indonesia Year 2011 Number 52, Supplemental State Gazette of the Republic of Indonesia Number 5216);
2. Government Regulation Number 31 Year 2013 on The Regulation of Implementation of Law Number 6 Year 2011 on Immigration (State Gazette of the Republic of Indonesia Year 2013 Number 68, Supplemental State Gazette of the Republic of Indonesia Number 5409);
3. Presidential Regulation Number 44 Year 2015 on Ministry of Law and Human Rights (State Gazette of the Republic of Indonesia Year 2015 Number 84);
4. Regulation of Minister of Law and Human Rights Number 29 Year 2015 on the Organization and Work of Ministry of Law and Human Rights (State Gazette of Republic of Indonesia Year 2010 Number 1473). Regulation of Minister of Law and Human Rights Number M.05.IL.02.01 Year 2006 on Immigration Detention Center;
5. The Regulation of Director General of Immigration Number IMI.1917-OT.02.01 Year 2013 on the tentang Standard Operating Procedure of Immigration Detention Center;

HAVE DECIDED:

TO ENACT : REGULATION OF DIRECTOR GENERAL OF IMMIGRATION ON
THE HANDLING OF ILLEGAL MIGRANT CLAIMING TO BE
ASYLUM-SEEKER OR REFUGEE

Article 1

For the purpose of this Regulation of Director General:

1. Foreigner shall mean a person who are not Indonesian citizens.
2. Asylum-seeker shall mean a foreigner who declare himself/herself as an asylum-seeker or having asylum seekers card that is issued by the representation of United Nations High Commissioner for Refugees in Indonesia
3. Refugee shall mean a foreigner who owns Refugee Card from the representation of United Nations High Commissioner for Refugees in Indonesia.
4. United Nations High Commissioner for Refugees, hereinafter referred to as UNHCR shall mean the United Nations High Commissioner for Refugees which provides protection and assistance to foreign asylum-seeker and refugee, in accordance with the Memorandum of Understanding with the Government of the Republic of Indonesia.
5. International Organization for Migration, hereinafter referred to as IOM shall mean an international inter-governmental organization which partners the Government of the Republic of Indonesia to manage, among others, the issues of foreign asylum-seeker and refugee in accordance with the Memorandum of Understanding with the Government of the Republic of Indonesia.
6. Placement shall mean the process of transferring foreign asylum-seeker and refugee from the location where they were found to Immigration Detention Center or from Immigration Detention Facility to Immigration Detention Center.
7. Rejected Person shall mean asylum seeker whose application for refugee status is rejected by UNHCR and can apply for appeal for two (2) times.
8. Final Rejected Person shall mean asylum-seeker whose application for refugee status has been closed by UNHCR and could no longer apply for appeal.
9. Voluntary repatriation shall mean repatriation of the asylum-seeker or refugee to the country of origin of foreign asylum seeker or refugee voluntarily.
10. Temporary Accommodation (Community House) shall mean other facility designated as the accommodation for foreigner whose status as refugee has been decided by UNHCR and with specific needs.

Article 2

- (1) Every foreigner who enters the territory of Indonesia is obliged to respect law and regulations.
- (2) All foreigner claiming to be asylum-seeker and refugee will be treated at first instance.

- (3) Treatment on first instance as referred to in paragraph (2) include:
 - a. To secure and take their data;
 - b. To contact the country representative of the concerned foreigner;
 - c. To contact IOM in for temporary accommodation facility;
 - d. To contact UNHCR for status determination.

Article 3

The stay permit of foreigner who has been granted refugee status from UNHCR Indonesia will not be questioned, provided that they do not violate the laws and regulations.

Article 4

- (1) Asylum-seeker and refugee who are living in Indonesia shall be placed in Immigration Detention Facility, Immigration Detention Center, or other location.
- (2) Asylum-seeker and refugee may be placed in other location in situation as mentioned below:
 - a. Immigration Detention Center or Immigration Detention Facility have exceeded their capacity;
 - b. Sick and in need of treatment;
 - c. Are about to give birth; or
 - d. Children.
- (3) The placement of asylum-seeker and refugee in other locations as referred to in paragraph (2) shall be implemented based on the approval of Director General of Immigration or appointed Immigration officials.
- (4) Asylum-seeker and refugee as referred to in paragraph (2) shall adhere to the laws and regulations, customs of the hosting community, and to fill in a statement letter.
- (5) The format of statement letter as referred to in paragraph (4) attached in the annex is inseparable part of this Regulation of Director General of Immigration.

Article 5

- (1) The placement of asylum-seeker and refugee in the Immigration Detention Facility, Immigration Detention Center or other location shall be implemented in accordance to the Standard Operating Procedure.
- (2) Foreigner who has been granted refugee status and is accommodated in temporary accommodation (*community house*) is obliged to make a monthly reporting to nearest immigration office.
- (3) The owner or management of temporary accommodation (*community house*) is obliged to make a monthly reporting of the identity and quantity of foreigners with refugee status to the nearest immigration office.

Article 6

- (1) The Head of Immigration Office is obliged to monitor and to register foreign asylum-seeker and refugee living in his / her area of responsibility and to coordinate with related institutions.
- (2) Registration as referred to in paragraph (1) is conducted to acquire the following information:
 - a. Basic information;
 - b. Sex;
 - c. Nationality;
 - d. Date of birth / age;
 - e. Picture and finger print; and
 - f. Travel documents.
- (3) The result of registration and monitoring as referred to in paragraph (1) and paragraph (2) shall be reported on the tenth day (10) of each month to the Director General of Immigration of which implementation is supervised by Director of Immigration Investigation and Law Enforcement and the Head of Immigration Division of the Regional Office of Law and Human Rights.

Article 7

The registration as referred to in Article 6 shall be conducted by the Head of Immigration Detention Center.

Article 8

The result of registration and handling of asylum-seeker and refugee shall be reported on the tenth day (10) of each month to the Director General of Immigration of which implementation is supervised by Director of Immigration Investigation and Law Enforcement and the Head of Immigration Division of the Regional Office of Law and Human Rights.

Article 9

In the event of information on follow-up activities in the handling of asylum-seeker and refugee required, the Head Immigration Detention Center shall coordinate with the country representative, IOM and UNHCR.

Article 10

- (1) The Head of Immigration Division of the Regional Office of Law and Human Rights is tasked to coordinate and supervise the handling of illegal migrant asylum-seeker and refugee which is carried out by the technical unit within his / her area of responsibility.
- (2) The Head of Immigration Division to report the coordination of monitoring, registration and handling of illegal migrant asylum-seeker and refugee to the Director General of Immigration of which implementation is supervised by Director of Immigration Investigation and Law Enforcement

Article 11

- (1) Immigration official requests UNHCR to provide data and information related to asylum-seeker and refugee who are living in the territory of Indonesia:
- (2) Data and information as referred to in paragraph (1) is used as the basis for analysis in the handling of illegal migrant asylum-seeker and refugee.

Article 12

The report of immigration registration and monitoring which is carried out by Immigration Division, technical unit and the information data from UNHCR will be used as consideration to formulate the policy in the handling of asylum-seeker and refugee.

Article 13

Director General of Immigration or appointed Immigration Official can issue an order to transfer the asylum-seeker and refugee:

- a. From Immigration Detention Facility to Immigration Detention Center;
- b. Between Immigration Detention Center;
- c. From Immigration Detention Center to other location;
- d. From other location to Immigration Detention Center; or
- e. From one location to other location.

Article 14

- (1) Asylum-seeker and refugee who have asylum-seeker certificate or refugee card issued by UNHCR which is not located in Indonesia shall be subjected to immigration acts.
- (2) Foreigner whose asylum application has been finally rejected by UNHCR will be subject to immigration acts.

Article 15

- (1) Every issue related to the finding, placement, treatment, transfer, and release of illegal migrants, asylum-seekers and refugees also urgent renovation of facility in Immigration Offices and Immigration Detention Centers shall be facilitated and financed by IOM or other international organizations.
- (2) Facility and treatment cost financed by IOM or other international organizations as referred to in paragraph (1) is provided in the form of food, health care, and activities that are beneficial for illegal migrants, asylum-seeker and refugee.
- (3) Heads of Immigration Office or Immigration Detention Centre shall express the needs of food, health care, urgent renovation of facility, and activities to IOM which includes the type of item/service, time, menu, quantity and quality.
- (4) Transfer and release as referred to in paragraph (1), shall be implemented with the following procedure:

- a. In every escort there should be 2 officials at the minimum.
- b. Escort for transfer of detainee from immigration detention facility to Immigration Detention Centers shall be carried out with a ratio of 1 (one) detainee escorted by 2 (two) immigration officials.
- c. Escort for transfer of detainee from one Immigration Detention Center to another Immigration Detention Center shall be carried out with a ratio of 1 (one) detainee escorted by 1 (one) immigration officials.
- d. Escort for transfer from Immigration Detention Center to temporary community accommodation shall proceed with a ratio of:
 - 1) 1 (one) to 5 (five) detainees escorted by a maximum 2 (two) immigration officials.
 - 2) For every addition of 1 (one) to 5 (five) detainees there should be 1 (one) addition of immigration officials.
- e. Escort in the event of Assisted Voluntary Return, 1 (one) detainees escorted by 2 (two) immigration officials.

Article 16

- (1) Immigration Official is obliged to escort detainees who are in need of medical treatment in clinic or hospital.
- (2) Escort for detainee as referred to in paragraph (1) which conducted outside the working hours shall proceed with a ratio of (1) detainee escorted by 2 (two) immigration officials.
- (3) Implementation of escort arrangement as referred to in paragraph (1) and 2 (two) shall be facilitated and financed by IOM or other international organizations.

Article 17

The processing of deceased body of illegal migrant, asylum-seeker and refugee who are accommodated in Immigration Detention Centers, Immigration Detention Facility and temporary community accommodations shall be carried out by the respective Head of Immigration Detention Centre/Immigration Office, in coordination with international institution/agency/organization.

Article 18

By the time this Directive from the Director General of Immigration comes into force, the Directive from the Director General of Immigration No.IMI-1489.UM.08.05, 2010 regarding the treatment of illegal migrants is revoked and declared invalid.

Article 19

This Directive from the Director General of Immigration shall come into force upon the date of promulgation.

Endorsed in Jakarta
On the date.....2016

DIRECTOR GENERAL OF IMMIGRATION

DR. RONNY F. SOMPIE, S.H., M.H.

ATTACHMENT
DIRECTIVE FROM THE DIRECTOR GENERAL OF
IMMIGRATION
NUMBER :
DATE :

STATEMENT LETTER FOR ILLEGAL MIGRANT WHO CLAIMING TO BE
ASYLUM-SEEKER OR REFUGEE

1. Text in Bahasa Indonesia

MINISTRY OF LAW AND HUMAN RIGHTS
REGIONAL OFFICE ...
IMMIGRATION OFFICE

STATEMENT LETTER OF REFUGEE

I... understand that the Directorate General of Immigration allows refugee who has obtained certificate issued by UNHCR Indonesia to be placed and stay in a dedicated place outside the Immigration Detention Centre as long as the refugee are under process of resettlement to the third country, with the following criteria:

1. Refugee shall stay in a dedicated place determined by the Directorate General of Immigration, unless given a written statement to be transferred or released for specific reasons.
2. Refugee is not allowed to be in airport or seaport area, unless escorted by immigration official(s).
3. Refugee is not allowed to receive guests who stay overnight or stay inside the dedicated place provided for them.
4. Refugee shall adhere to the laws and regulations applied in Indonesia, including not to find a job, carry out activities related to receiving payments, driving without a driver's license, and to keep in order the surrounding area.
5. Refugee shall report themselves to the Indonesian Immigration on a regular basis, once in every 1 (month).

I hereby understand and will abide by this provisions, and if I violated, I am willing to be replaced in the Immigration Detention Centre during the process of resettlement to the third country.

Refugees	:	.....	Witness	:	.....
Signature	:	.....	Signature	:	.....
Date	:	.....	Date	:	.....
Place	:	.....	Place	:	.....