

## LEGAL REVIEW OF THE CRIMINAL CASE OF IDENTITY FALSEMENT IN PASSPORT ISSUANCE

( Study Case Decision Palangkaraya District Court Number 402/ Pid.Sus /2020/PN Plk )

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### Abstract

Study This study accountability criminal to perpetrator main and related parties participate as well as in action criminal forgery identity For get Document Journey Republic of Indonesia. The research also examines the role and authority of Immigration PPNS in enforcement law to action criminal immigration of a legal nature inclusion . Research use method juridical normative with approach legislation and studies case to Decision Number 402/ Pid.Sus /2020/PN Plk . Research results show that perpetrator main sentenced criminal based on Article 126 letter c of the Law Number 6 of 2011 concerning Immigration , but other parties are also involved in case This No ensnared criminal Because No made into subject law in investigation , although fact trial show existence parties involved and related assistance direct with actions criminal . This is cause problem implementation principle accountability criminal *liability* and inclusion ( *deelnemng* ) which are not optimal in law immigration . Research This confirm importance implementation principle justice substantive with ensnare all over parties involved as well as in action criminal , as well as strengthen the role of Immigration PPNS so that it can uphold law in a way comprehensive and proportional .

**Keywords : Accountability Criminal , Participation , Forgery Identity , Immigration , PPNS.**

### INTRODUCTION

In the era of globalization which is marked by with increasing mobility resident interstate , issues immigration be one of issue important related close with aspect security , order , and state sovereignty . Immigration No only functioning as mechanism administrative For arrange the entry and exit of people from and to the territory of Indonesia, but also has meaning strategic as part from system law national role in guard integrity and interests of the state. Based on Constitution Number 6 of 2011 concerning Immigration , every activity Then cross people, good Indonesian citizens and foreigners must implemented with put forward principle order , security , and accuracy of population data . Passport as document journey The Republic of Indonesia has very important position in system law immigration Because become proof citizenship and tools identity official Indonesian citizens abroad . Passport No only tool For traveling , but also a form state legitimacy of citizenship status someone . Therefore that , publishing passport must based on valid , correct and reliable data accountable in a way law . However , in reality , in implementation administration immigration Still often found misuse of personal data or forgery identity that is carried out For get document journey in a way oppose law .

Action criminal forgery identity in manufacturing passport is one of the form violation laws that have an impact wide Because No only injure validity administration population , but also has the potential detrimental to the country and create gap for occurrence action other crimes such as human trafficking , smuggling humans , and actions criminal cross- border crime This show weakness system supervision and coordination inter-agency related , especially between Directorate General Immigration with the Population and Registration Service Civil . Rule related forgery identity in context immigration arranged in a way clear in Article 126 letter c of the Law Number 6 of 2011 concerning Immigration , which states that every individuals who with on purpose give information invalid or wrong statement for get Document Journey Republic of Indonesia can punished . This article means that the state considers accuracy of population data as element important in the publishing process document immigration . With Thus , every an action that attempts manipulate identity individual For get passport including in category crime immigration .

However, in implementation enforcement law, often only perpetrator main applicant application passport with fake data entangled in a way criminal, while another party who persuades or support the forgery process identity No charged sanctions law. This is create imbalance in implementation principle accountability criminal law and principles regulated inclusion (*deelneming*). in Article 55 and Article 56 of the Criminal Code. The situation This describe Still the rest difference between existing legal norms and their implementation in the field. Forgery identity in manufacturing Document Journey The Republic of Indonesia is not only violation administrative, but also actions criminal threats integrity system immigration. In in practice, still There is case manufacturing passport with identity data that is not accurate or invalid. One of them example real there is in Decision Number 402/ Pid.Sus /2020/PN Plk, which reveals a series action forgery identity that involves actor principal, as well as other parties involved in persuade and help.

Based on fact law in the listed trial in decision that case This started when YX, a foreigner, asked defendant MEW for make deed unplanned birth legitimate For his son with the initials YK. With help a staff honorary Dukcapil with the initials G, deed birth false with Name new with the initials MSW succeeded produced as if MSW is child MEW biology. With utilise deed birth that, MEW next submit application Indonesian passport at the Immigration Office Sampit and successful get passport on MSW name. Passport the Then handed over to YX. In verdict, proven that YX did the persuading, MEW did the doing, and G did the helping, but only perpetrators who committed (MEW) who were processed law and sentenced criminal. Condition the cause question important about effectiveness enforcement law, in particular in implementation principle inclusion in action criminal immigration. From the perspective law criminal, responsibility criminal only can charged to someone who fulfills element error, namely existence ability responsible answer, awareness on actions carried out, as well connection causal between actions and their consequences. Everyone who with on purpose do acts prohibited by law must can asked accountability on his actions. In context action criminal immigration, should be principle this also applies to the persuading party and help, because both of them own contribution to realization actions criminal the.

Investigator Civil Servant (PPNS) Immigration own authority important in do investigation to action criminal immigration, as arranged in Articles 105 to with Article 107 of the Law Immigration. Authority This covers reception reports, collection tool evidence, summons witness, examination suspect, until foreclosure document. However, the implementation Immigration PPNS authority often face obstacles, okay Because limitations coordination with police and prosecutors, as well as Because weakness enforcement law to perpetrator participation. As a result, the principle accountability the crime that should be can reach all over perpetrator Not yet can implemented in a way maximum. The gap between legal norms and practice justice show the need evaluation deep to implementation law immigration, in particular in context accountability criminal to perpetrator inclusion. Enforcement law should No only focus on the perpetrator directly, but also pay attention to involvement other contributing parties to occurrence action criminal law. Implementation the law that only touch part party without reach all over perpetrator will result in injustice and lowering effectiveness system justice criminal.

Through study this, it is hoped can obtained comprehensive understanding about accountability criminal in action criminal forgery identity in manufacturing document travel, as well as evaluate to what extent is the authority of the Immigration PPNS can optimized For uphold law in a way fair and comprehensive. This study is also expected can give contribution theoretical to development law criminal law, in particular in implementation principle *deelneming* in case immigration, at the same time strengthen synergy inter-enforcement law in create system transparent, accountable and fair immigration. Problems that arise in case This No only concerning forgery identity only, but also concerns how the investigation process works done as well as Who just the party that should responsible answer in a way criminal. Therefore that, research This set formulation problem as following:

1. How Immigration PPNS authority in do investigation to action criminal forgery identity For get passport?
2. How accountability criminal towards the related parties in case forgery identity based on Decision 402/ Pid.Sus /2020/PN Plk?

## **METHOD**

Study This use method Juridical Law Research Normative, research conducted with method analyze material primary literature (norms or rules, UUD 1945, regulations legislation, decisions courts, jurisprudence) and secondary (i.e. material the law that provides explanation about material primary law, such as books, results study in the form of journal) as focus main in research that will be become results from study Juridical Normative. Approach case done through review to related matters with issue laws that have been researched and have been decided by the court as well as own strength law still. In approach case this, focus study directed at *the ratio*

*decidendi* or consideration judge's law , namely reasons underlying juridical court in drop decision . The types and sources of data used in study This is as following :

1. Primary data is data obtained in study This in the form of Decision Palangka Raya District Court No.402/ Pid.Sus /2020/ PN.Plk , Wonosobo District Court No.15/ Pid.Sus /2024/PN Wsb , No.455/ Pid.Sus /2024/PT Smg , No.7774 K/ Pid.Sus /2024, and Decision Cilacap District Court No.6/ Pid.Sus /2024/PN Clp .
2. Secondary data is the data obtained researchers in a way No direct from object research , but rather through sources other . In study law this is secondary data consists of on ingredients related literature with problem the law under study as well as own relevance and appropriateness with primary data as supporters analysis .

As for data collection in study This use techniques and instruments as following :

1. Studies documents , namely technique data collection for obtain primary data through review and analysis to decision court . In study this study document done with study Decision Palangka Raya District Court Number 402/ Pid.Sus /2020/ PN.Plk .
2. Studies bibliography , namely technique data collection for obtaining secondary data through search and review ingredients relevant literature with problem research , including books , dictionaries law , journal scientific , as well as regulation legislation , both in form print ( *hard copy* ) or digital ( *soft copy* ) .

## **RESULTS 1 AND 1 DISCUSSION**

### **A. Authority g Investigator Employee Country Civil (PPNS) Immigration In Do Investigation To Action Criminal Immigration**

In implementation , enforcement law in the field of immigration held through two forms mechanism , namely administratively and through the *pro justitia* process . Authority in handling case action criminal immigration is at the Immigration PPNS is investigator specifically whose authority sourced from Constitution Immigration as law criminal special (*lex specialis* ) , so that in handling action criminal immigration valid arrangement special that can put aside provision general in the Criminal Procedure Code. (Raharjo, 2020) Investigator Civil Servant ( PPNS) Immigration as officers who have authority investigation . In carry out function investigation , PPNS Immigration own not quite enough answer juridical For ensure that every action investigation done in accordance with provision law positive that applies , as well as not quite enough answer official duties carried out structurally and hierarchically . Scope Immigration PPNS authority covering reception reports , search and collection tool evidence , determination suspect , until delegation file case to prosecutor general , which is implemented based on principle *due process of law* . (Syahrin, 2020) Provision about authority the in a way explicit arranged in Article 105 of the Law Number 6 of 2011 concerning Immigration , which states that " Immigration PPNS given authority as investigator action criminal immigration, the implementation of which done in accordance with provision in Constitution This ."

The authority of the Immigration PPNS is also explained more detailed in Article 106 of the Law Number 6 of 2011 Concerning Immigration , state :

“ Immigration PPNS authorized :

- a. accept report about existence action criminal Immigration ;
- b. look for information and tools proof ;
- c. do action first in place incident ;
- d. forbid everyone leaves or enter place incident case For interest investigation ;
- e. summon , examine , search , arrest , or withhold someone who is suspected do action criminal Immigration
- f. detain , inspect and confiscate Document Journey ;
- g. order stop the suspected person or suspect and examine identity himself ;
- h. inspect or confiscate letters , documents , or existing objects the relationship with action criminal Immigration ;
- i. call somebody For examined and heard the statement as suspect or witness ;
- j. bring in the necessary experts in the relationship with inspection case ;
- k. do on- site inspection certain suspected there is letters , documents , or other existing objects the relationship with action criminal Immigration ;
- l. take photos and fingerprints finger suspect ;
- m. request information from public or competent sources ;
- n. do termination investigation ; and/ or
- o. stage other actions according to law ."

Investigator Civil Servant ( PPNS) Immigration own room scope sufficient authority wide in carry out investigation to action criminal immigration , including in matter occurrence forgery identity in the publishing

process passport . Although Thus , the implementation authority the must executed in accordance with provision regulation applicable laws and regulations as well as with still weave coordination with apparatus Republic of Indonesia National Police . Provisions about matter the in a way firm listed in Article 107 of the Law Number 6 of 2011 concerning Immigration , which states that :

- (1) In do investigation , Immigration PPNS coordinate with investigator Republic of Indonesia National Police .
- (2) After finished do investigation , Immigration PPNS deliver file case to prosecutor general .

Article 107 is like that important use prevent occurrence abuse authority and ensure enforcement fair and professional law . In authority investigator handle case action criminal immigration prioritized rules that are special that is handled based on the duties of the Immigration PPNS listed in Constitution Number 6 of 2011 Concerning Immigration , and set aside authority investigator police arranged in the Criminal Procedure Code which is of a nature general . Phenomenon the is applied *from the principle of Lex Specialis Derogat Legi Generali* . In practice , implementation Immigration PPNS authority Still face constraint coordination with Police and Prosecutors , which has an impact on not yet optimally enforcement law to all over parties involved in action criminal immigration . (Ardiwisastra, 2021)

Case forgery identity in manufacturing passport that occurred in 2013 at the Immigration Office Class II TPI Sampit then found and followed up by investigators Civil Servant ( PPNS ) Immigration Office Class I Non TPI Palangkaraya , decision Number 402/ Pid.Sus /2020/PN Plk handled at the stage investigation . Because at the time it's at the Immigration Office Class II TPI Sampit Not yet There is Immigration investigator . Immigration Office PPNS Class I Non TPI Palangkaraya as investigators in the case this . With the basis of Article 84 paragraph (2) of the Criminal Procedure Code which regulates about authority relatively District Court in to judge something matter . In specific , verse This state that District Court whose jurisdiction become place stay , place last , or place found or detained defendant , authorized to judge case the If part big witnesses summoned be in the jurisdiction court said and more near to court the than to court where the action criminal done .

This article give exception to principle *locus delicti* Because the witness more Lots be in town Palangkaraya , then exception This aim For to facilitate the trial process , so that witnesses No need go through journey Far For give testimony . Investigator Immigration also does detention in the city Palangkaraya , so that make it easier during the trial process . In case Decision Number 402/ Pid.Sus /2020/PN Plk Investigator Civil Servant ( PPNS ) Immigration Office Class I Non TPI Palangkaraya on duty start from investigation , inquiry , investigator immigration Palangkaraya give letter announcement that investigation has finished and files case Ready handed over to the Prosecutor General (p18), after the Prosecutor General state file case Already complete , then come out letter p21, next enter to phase II investigator do handover suspect and goods proof to the Prosecutor General For do compilation letter charges and scheduling trial at the Palalangkaraya District Court . Without through p19 and p20 because all file cases handed over by investigators Already complete . Can seen that the authorities in determine and capture Who only what is thought has do action criminal immigration is task from the Immigration PPNS . With thus , it can it is said that determination suspect in case action criminal immigration as one of the from effort force which is authority from Immigration PPNS For determine other suspects such as the person suspected ordered and suspected person help to on the suspect list so that the suspects the can brought to the trial process , throughout there is proof quite a start towards each party .

Before set suspect investigator need paying attention to Article 1 number 14 of the Criminal Procedure Code which defines suspect " a person who because of his actions or the circumstances , based on proof a decent start , presumably as perpetrator action criminal ". In proof a good start , appropriate with basis of Article 184 of the Criminal Procedure Code. Determination suspect by investigators only can done if has fulfilled proof quite a start , which in fact normative interpreted as at least two tools valid evidence . (Mulyadi, 2022). Valid evidence in the form of information witness , statement experts , letters , instructions , as well as information from the defendant . In decision Number 402/ Pid.Sus /2020/PN Plk , in the statements of witnesses and statements the accused , was found existence other parties involved , namely the person who saves passport said , recommending defendant do action criminal and people who help defendant in do action criminal . The parties it is also necessary set as suspect by investigators , so that can the judicial process is carried out . However in a way practice occurrence that only the perpetrator who was ordered or perpetrator directly to the trial , the matter This Can caused by if PPNS Immigration only own tool sufficient evidence to the perpetrator who was ordered , while to those who instructed and helped proof beginning Not yet enough , and even No There is strong evidence . Factors other possibility big happen constraint technical or proof to other actors , such as perpetrator No confess or even No There is proof strong for example documents , evidence communication that existence relatedness with the party who orders and the party

who helps . Even Can happen Because caused by coordination between Immigration PPNS , Police , and Prosecutor's Office not optimal. Then can also caused by existence consideration law from prosecutor general , so that prosecutor Can return file only For perpetrator certain , because others have not fulfil element criminal . For example if the person who helps in action criminal forgery identity carried out by the perpetrator who was ordered , not know that information the fake , in other words that the person who helps the No know existence action criminal , then the person No can set as suspect Because No meet the “ evidence” quite a start ”. Different if the person knowing , then that person must set as suspects and the judicial process is carried out . Then can fulfills Article 1 number 14 of the Criminal Procedure Code which defines characteristics that can be it is said as suspect .

However , if seen from fact trial at the verdict Number 402/ Pid.Sus /2020/PN Plk , identification of two pieces of evidence quite a start according to Article 184 which can made into base for investigator For set YX as suspect , because Already clear There is involvement direct from YX in action crimes committed by the defendant MEW. In case this , PPNS Immigration start investigation after find indication existence Indonesian passport used by a child of a foreign national (YK), however No ensnare all over parties involved . Based on results inspection witnesses , revealed clear that identity child changed by the defendant with assistance G. Defendant do action the Because ordered by YX. However , PPNS only determine MEW ( perpetrator) directly ) as suspect , while YX ( the party who recommended ) and G ( the party who helped ) were not processed law . This is show that in implementation investigation , the authority of PPNS has not been implemented optimally in context participation ( *deelneming* ).

### **B. Accountability Criminal Towards the Related Parties In Case Forgery Identity Based on Decision Number 402/ Pid.Sus /2020/PN Plk**

Position case I :

The Accused Brother MEW, Indonesian citizen , self- employed working become employee at the company owned by YX's father ( when YX's parents are still live ). YX foreign citizen China , mother bladder from YK alias MSW. A foreigner from YX gave birth a child men at the YASMIN Hospital in Palangka Raya, from results his marriage with XJ, son the given YK's name . Case started when YX, a Chinese citizens , asking help defendant For make deed birth for his son named YK , the result his marriage with XJ. The child born in Palangka Raya on September 19, 2012. At the request of said , the defendant MEW then look after deed birth fake at the Population and Registration Service Civil Regency East Kotawaringin on June 20 , 2013, with help power honorary named G. In deed said , name child changed become MSW, and listed as if child from the defendant and his wife , M. Furthermore , on June 24 , 2013, the defendant come to the Immigration Office Class II TPI Sampit together children and their caregivers For submit application Passport Republic of Indonesia. He attach document fake , including his KTP and KK , marriage certificate , and deed birth false said , and stated that child That is child his/her biological . Application approved , and Passport on MSW's name was issued on June 27 , 2013. Passport the Then handed over defendant to YX.

Legal Facts Revealed at Trial

From the description witnesses and experts at trial revealed :

- a) XJ ( former YX's husband ) and YX confirmed that child they named YK, nationality China .
- b) Witness from Immigration explain that defendant Correct submit application passport with attach document complete as seen valid , so that No cause suspicion .
- c) Immigration Expert explain that action the defendant who provided data and information No legitimate For get Document Journey The Republic of Indonesia for others is action criminal as regulated in Article 126 letter c of the Immigration Law .
- d) Defendant confess his actions and stated regret .

Prosecutor 's Demands General

The prosecutor demanded that the defendant stated proven guilty do action criminal immigration as per Article 126 letter c of Law No. 6 of 2011, with demands Criminal prison for 8 ( eight ) months , fine Rp. 3,000,000.00 subsidiary for 1 ( one ) month confinement , as well as loading cost case amounting to Rp. 3,000.00.

Judge's Considerations and Decision

The panel of judges considered that actions defendant has fulfil element provide data no legitimate or information No Correct For get Document Journey Republic of Indonesia for others. However, the judge also considered defendant behave polite , acknowledge mistakes , and regret . Therefore that , the court drop more decisions light than the prosecutor's demands , namely criminal prison for 6 ( six ) months , fine Rp. 3,000,000.00 subsidiary for 1 ( one ) month confinement , as well as set goods proof still attached in file matter ..

1. Analysis Writer

Defendant with the initials MEW plays a role as the perpetrator who committed the crime direct actions criminal forgery identity For get passport in case this . Action defendant nothing else , namely change identity child another person ( a foreigner) becomes identity new (Indonesian citizen). Then with identity the defendant submit application manufacturing passport with information that is not Correct the . Accountability criminal is consequence law on actions someone who violates provision legislation . Every perpetrator action criminal must accountable his actions throughout fulfil elements error as intended in law criminal liability criminal only can charged to the perpetrator who has error , okay in the form of intentional and negligence , and No existence reason forgiving or justifier , as reflected in principle *green l straf l zonder l schuld* (Hiariej, 2020) or nothing criminal without error .

In case forgery document For manufacturing passport by the defendant MEW, the actions taken proven violates Article 126 letter c of the Law Number 6 of 2011 concerning Immigration , namely provide data or information No Correct For get document journey Republic of Indonesia. Therefore that , the act the has fulfil element action criminal and can asked accountability criminal elements error in law criminal covering ability responsible , existence connection inner between the perpetrator and his actions , and awareness to consequence law from actions the . (Hamzah, 2021) Third element This become base for judges in determine whether perpetrator can asked accountability criminal on his actions . In case this , the defendant MEW has ability responsible answer Because in condition Healthy physical and spiritual as well as understand consequence from his actions . The defendant with aware give information fake and submit documents that are not legitimate use get passport for other people (foreign nationals), so that element error fulfilled completely .

Defendant has charged by the Prosecutor General with indictment single as arranged in Article 126 letter c of the Law Number 6 of 2011 concerning Immigration , the elements of which is as following : 1. Every person; 2. provides data that is not legitimate or information that is not true 3. for get Document Journey Republic of Indonesia for himself Alone or other people; As for the elements action criminal forgery document in manufacturing passport , as arranged in Constitution immigration and Criminal Procedure Code. Element First is subject or “ Everyone ”, Element This show subject laws that can asked accountability on his actions . Based on fact trial , the defendant MEW is a Indonesian citizens who are in condition healthy and conscious , so that fulfil condition as subject laws that can asked accountability criminal . The panel of judges stated that element This proven in a way legitimate according to law . Element second is “ With Intentionally ”. Intentionally is form connection inner between the perpetrator and his actions .

From the facts law , proven that defendant with aware give information false with confess that MSW alias YK is child his biological . The defendant also prepared and submitted document fake , like deed birth and card family that has changed . Although had time reject request from YX as much as three times, finally defendant agree do actions the without existence coercion . Therefore that , element intentional proven . The element " Providing Unauthorized Data or Description that is not True " In action criminal this , element This fulfilled through action defendant deliver various documents containing unrelated data true , including deed birth fake and card a family that seems show that MSW is child bladder defendant . Document the used For submit application passport at the Immigration Office Class II Sampit , so that element This proven in a way material . The element “ For Get Document Journey Republic of Indonesia” defendant with aware use documents that have been falsified For get passport for others in a way No legitimate . Purpose and consequences from actions defendant each other related , so that element This fulfilled . With Thus , all elements of Article 126 letter c of the Immigration Law has proven and fulfilled condition For drop criminal to defendant . Based on consideration said , the Panel of Judges at the Palangka Raya District Court in Decision Number 402/ Pid.Sus /2020/PN Plk drop criminal prison during six months and fines amounting to IDR 3,000,000, air subsidies confinement One month , with determine the period of detention that has been lived as reduction of sentence .

Drop criminal to defendant MEW reflects implementation theory criminalization combination (combination) which contains element retributive *justice* and deterrence . The judge *considers* that actions defendant No only detrimental to the state administrative , but also injurious trust public to system identity population and immigration. The penalties imposed expected give effect deterrent , good for perpetrator and public . Besides in Constitution Immigration , forgery documents made by the defendant are also regulated in Article 266 of the Criminal Code. Article 266 concerns something deed authentic in it somebody order enter information pass to in deed That about the thing that(Wirjono, 2012) the truth must proven by deed That with objective For use or tell other people to wear it deed that , as if information That true . If the use deed That can cause something loss , then the perpetrator punished with punishment maximum seven year prison . Elements from action criminal This is that deeds the must prove something events , and about incident here it is notified things that are not Correct to officials the For loaded in deeds made by officials that . That makes letter is someone else who is not si perpetrator action criminal this . So , it is

necessary confirmed that what the officials wrote the No Correct .(Wirjono, 2012) Deeds the defendant is also relevant with provisions of Article 266 paragraph (1) of the Criminal Code, which regulates action criminal enter information false to in deed authentic . Deed birth is document authentic that has strength proof perfect . The elements chapter This includes :

1. The existence of deed authentic ;
2. inclusion information false ;
3. Meaning For use or tell other people to wear it deed said ; and
4. emergence potential loss .

All element This proven Because defendant in a way aware give information false to Population and Registration Service officials Civil in manufacturing deed MSW birth certificate the Then used as base For submit passport , which gives rise to loss for the country and injure integrity administration population . Case this also shows existence other parties also involved in the process of happening action the crime committed by the defendant , namely YX, who persuaded defendant For make passport for his son with identity fake . Based on Article 55 of the Criminal Code, inclusion ( *deelneming* ) includes perpetrator main , the person who persuades do , and the person who helps . Then from that , YX in juridical can accountable as the perpetrator who persuades perpetrator main For falsify identity Then use falsified identity the For submit manufacturing Document RI's journey .

Doctrine inclusion ( *deelming* ) includes perpetrator direct , the person who persuades do , people who participate do and help action criminal , all of which can asked accountability criminal if proven own contribution real to realization offense (Ali, 2021) with his actions fulfil elements of Article 56 of the Criminal Code. Then based on Articles 55 and 56 of the Criminal Code, the parties can also be asked accountability criminal . Article 55 paragraph (1) 2 of the Criminal Code regulates that the party with on purpose encourage others to do action criminal convicted as perpetrator . In doctrine law criminal , proponent ( *uitlokker* ) understood as the party that caused the problem or strengthen will perpetrator main through persuasion , request , or influence certain so that action criminal the Finally done .

In case this , the act perpetrator main No can released from role active YX that asks and pushes manufacturing document population with data that is not true . Request the done for the benefit of YX's personal and become factor determinant occurrence action criminal . Although perpetrator main act with awareness and intention , will beginning For do actions oppose law the influenced by impulse from YX. Therefore that , YX more appropriate qualified as advocate than the person who ordered do . Besides fulfil element advocacy According to the Criminal Code, YX's actions can be ensnared with Article 126 letter c of the Law Number 6 of 2011 concerning Immigration , because use deed births containing data do not legitimate aim For get Document Journey Republic of Indonesia for others ( i.e. YX's child ). Besides that , the act can also be ensnared with Article 93 of the Law Number 24 of 2013 concerning Administration Population Because involves the act of persuading and facilitating data recording that is not Correct Foreign citizens who use passport with identity false Can charged sanctions administration and sanctions criminal through justice . Sanctions administration for foreign nationals who use passport false arranged in Article 75 of the Law Number 6 of 2011 concerning immigration , which reads :

1. “ Official Immigration authorized take Administrative Action Immigration against foreigners who are in the territory of Indonesia who commit activity dangerous and worthless allegedly endanger security and order general or No honor or No obey regulation legislation .
2. Administrative Action Immigration as referred to in paragraph (1) can in the form of :
  - a. Inclusion on the Prevention list or Prevention ;
  - b. Restrictions , changes , or cancellation Permission Stay ;
  - c. Prohibition For be in one or a number of place certain areas in the Indonesian Territory;
  - d. Must For located live in a place place certain areas in the Indonesian Territory;
  - e. Imposition cost load ; and/ or
  - f. Deportation from the territory of Indonesia.”

YX's actions with on purpose keep Document Journey Republic of Indonesia with Meaning For used for his son who is still under age can ensnared criminal based on Article 127 of the Law Number 6 of 2011, which states : " Any person who intentionally and against law keep Document Journey Fake Republic of Indonesia or falsified with Meaning For used for himself Alone or other people are punished with criminal imprisonment for a maximum of 5 (five) years and criminal a maximum fine of Rp. 500,000,000.00 (five hundred million rupiah).” Because of the act save and use passport false for others it is nothing but his son the fulfil element criminal offense in this Article , if YX in condition Healthy reason his mind or capable responsible in a way criminal offense at the time do action criminal said , then actions criminal can stand through this Article .

Article 266 of the Criminal Code also regulates enforcement law criminal for those with on purpose use deed with information false as if information That correct and usage deed the can cause loss . Besides that , if proven that staff of the Population and Registration Service Civil ( Dukcapil ) helps with the process of making document fake and knowing the data is incorrect , then his actions can categorized as assistance action criminal(medeplichtigheid ) as intended in Article 56 of the Criminal Code. However , in in practice , enforcement law often only ensnare perpetrator direct without take action the ordering party or help , so that cause problem justice and equality law . “On June 12 , 2013 the defendant will make a certificate Birth on MSW name in the office Ward West Baamang , Kotim with bring a Birth Certificate signed by Midwife S on September 20 2012 in Sampit with information that has born baby man named MSW child 2nd of Monika couples with MEW, but Because defendant No understand , then defendant request help to G, staff at the Population and Registration Office Civil Kotim For enter MSW name to in the Family Card defendant as child second from MEW couple with M.”

From the facts the can seen that There is involvement staff Civil Registration Department that helps in manufacturing deed birth . This is can requested accountability criminal also if staff the aware and knowing that statement given by the defendant No Correct or fake , meaning There is intention evil ( element) mensrea ) above action staff Civil Registration Department with on purpose make it easier defendant in do action criminal in the case this . In law criminal law for anyone who intentionally with aware help perpetrator main in operate action criminal arranged in Articles 56 and 57 of the old Criminal Code regarding assistance , and in the new Criminal Code arranged in Law 1/2023. Element intentional in assistance can assessed in a way inferential from G's position as an officer who understands procedure administration population . Registration foreign nationals as child Indonesian citizens are deviation administrative matters that should be known by the officer who is carrying out the function said . With Thus , the elements assistance as intended in Article 56 of the Criminal Code can considered fulfilled .

Besides that , G's actions can also be ensnared with Article 93 of the Law Number 24 of 2013 concerning Administration Population Because help occurrence population data manipulation . Deed published birth with his help Then used as base submission passport , so that actions is also related with action criminal immigration as arranged in Article 126 letter c of the Law Number 6 of 2011 in conjunction with Article 56 of the Criminal Code. In terms of enforcement law , case This show that implementation of Article 126 letter c of the Immigration Law has in accordance with the principle of " no" criminal without error” ( *geen staff without schuld* ). However , in normative , still there is emptiness law in arrangement accountability for the party who ordered forgery identity in manufacturing passport . Conditions inclusion in the Criminal Code indeed can made into basic , but Not yet arranged in a way specific in the Immigration Law .

Emptiness law the potential cause inequality in implementation sanctions , because only perpetrator directly punished , while the party that owns role more big No touched law . Therefore that , is necessary norm updates in Constitution Immigration For accommodate accountability criminal for perpetrator inclusion , so that principle justice and certainty law can come true in a way balanced . In action criminal immigration , implementation principle inclusion become very important Because crime immigration generally done in a way organized and involving more from One parties , so that criminalization that only touch perpetrator direct No reflect justice substantive . (Yulianti, 2021) From the analysis above can it is said that accountability criminal to perpetrator forgery identity in manufacturing passport has implemented in a way appropriate to defendant MEW. All element offense proven in a way valid and convincing , and No there is reason forgiving or justification . However , the expansion accountability to the party who ordered or help must become attention in formation law criminal immigration to front , so that the system accountability criminal more comprehensive and fair . Forgery identity in manufacturing passport is action criminal immigration that is not only harm state administration , but also has the potential cause threat to security national and trust public to system immigration . (Syahrin, 2020)

In case this , which is fake No only case immigration but start from forgery deed birth until card which family thing the arranged in a way general in the Criminal Code. Then the parties involved as well as can also be ensnared with the Criminal Code. In the investigation process at the time determination Immigration PPNS suspect focus on action criminal immigration that occurs with still coordinate with party police . In case this was also found existence action criminal the actual general can processed through police moment determination suspect . With so , the police can take over the case of the parties involved with basis of the Criminal Code. Based on fact trial in Decision Number 402/ Pid.Sus /2020/PN Plk , child with the initials YK is Chinese citizen , born from mother YX and father XJ, both Chinese citizen . This fact confirmed in information witnesses and tools evidence that states that child the own Chinese passport and registered as a foreigner. In juridical , provisions Indonesian citizenship is subject to law Number 12 of 2006 concerning Citizenship , which adheres to principle :

- a) *Jus sanguinis* – citizenship follow parents ( father or mother ). This means , child from foreign national fathers and mothers automatically not an Indonesian citizen.
- b) Principle No know bi citizenship for adults . Because children This born in 2012, he No including category child citizenship double limited .

With thus , in a way law No maybe YK can get or use Passport Republic of Indonesia, except through procedure naturalization that is not Once done . The fact that defendant change identity child become an MSW and then get Indonesian passport shows existence falsification of citizenship data , violation to principle of non-dual citizenship, violation of procedures giving document RI's journey which only may given to Indonesian citizen . Acquisition Indonesian passport by this foreign national emphasize that actions defendant No only fulfil element data falsification for get passport (Article 126 letter c Law 6/2011), but also contradicts

with system law Indonesian citizenship , because ,

- a) The child remain WNA according to Constitution Number 12 of 2006 concerning Citizenship ,
- b) No own base law as holder Indonesian Passport ,
- c) Defendant know that child the not an Indonesian citizen ( proven) from information witness YX who stated child is Chinese citizens ).

Due to that , the data falsification that was carried out defendant own impact law more area , namely create citizenship status fictitious which is law No can justified .

Case II and Case III Author also describe the position case from The verdict as comparator For case I.

Position case II:

The defendant SL alias SW, a Chinese foreign citizen , worked as doctors and investors.

On November 3 , 2023, the defendant do submission Indonesian passport at the Immigration Office Class I TPI Cilacap , defendant realize that defendant is a foreign national. At the time in the office Immigration dating witness YR conveyed that applicant on SW's name had a stroke mute in talk . At the time conducting the interview process known that defendant can speak However No can speak Indonesian, so that cause suspicion . Then defendant confess that defendant obtain KK, KTP, Deed Birth , and NPWP No. No entitled with assisted by J or A ( on the wanted list). The defendant also admitted get information from J or A (DPO) for get Indonesian passport .

The prosecutor demanded defendant based on Article 126 paragraph c of the Law Number 6 of 2011 Concerning Immigration with criminal 1 year , 6 months imprisonment and criminal a fine of one hundred million rupiah, subsidiary imprisonment replacement fine for 4 months . Cilacap District Court Judge decide defendant with Article 126 paragraph c of the Law Number 6 of 2011 Concerning Immigration criminal prison for 7 months and criminal fine a total of fifty million rupiah, with provision if fine the No can paid so replaced with criminal confinement for 2 months .

Position Case III:

Defendant with the initials ZAI, born in Egypt , lives while in Purwokerto . On November 13, 2023, approximately at 07.11 WIB, the defendant come to the Immigration Office Class II Non TPI Wonosobo For submit application Indonesian passport . He attach KTP, Family Card , and Certificate Birth on name “ZAI”. During the photo and interview process biometrics , officer find oddities in gestures , language , and documents the defendant who caused suspicion that He No Indonesian citizens (WNI). After confirmed , the defendant No can show document original , no know the origin of the parents , as well as No Can explain address living in Indonesia. It is known Then that defendant get document population fake (KTP, KK, Deed Birth ) through somebody named Dedi, with pay amount of money: Rp. 1,000,000 for KK, Rp. 500,000 for KTP, Rp. 2,000,000 for Deed Birth . The goal is to be able to get Indonesian passport , although Actually status foreign nationals .

Legal Facts at Trial , Evidence Submitted :

- a) Document population (KTP, KK, birth certificate) Birth ) above name ZAI.
- b) File application passport and results interview biometrics .
- c) Goods proof electronic from iPhone 11 Pro Max and Samsung Galaxy A05 phones . Description witness
- d) LA and CAP, officers Immigration , confirming existence oddity and stated defendant No Can prove validity the document .
- e) Witness from Bogor Population and Civil Registration Office explains that the e-KTP above Name defendant Correct recorded , but obtained based on document the basis that is not valid .

Confession defendant : Confess has use document the For look after passport . Admit regret and promise No repeat it . Confess do matter That Because need administration and not know the process violate law .

Prosecutor 's Demands General state defendant proven in a way valid and convincing guilty do action criminal " With on purpose provide data that is not legitimate or information that is not Correct For get Document Journey

Republic of Indonesia" as referred to in Article 126 letter c of the Law Number 6 of 2011 concerning Immigration . Dropping criminal prison for 2 (two) years and a fine of Rp. 50,000,000.00, subsidiary 3 ( three ) months imprisonment . The panel of judges granted part demands the prosecutor stated defendant proven in a way valid and convincing guilty violating Article 126 letter c of Law No. 6 of 2011. Imposing criminal to defendant prison for 1 ( one ) year and 6 ( six ) months and a fine Rp. 25,000,000.00, subsidiary 2 (two) months confinement . Determine goods proof in the form of electronic documents and data still attached in file case . Burden cost Rp. 5,000.00 case to defendant .

From two cases decision above the author take from case 3- year sentence lastly , case similar with decision Number 402/ Pid.Sus /2020/PN Plk , Where are the perpetrators the main thing is to be helped by other people , the actors who help Still has DPO status and has not on trial until to court . The author also found news from detiknews which occurred in 2024 , there was case forgery alleged identity carried out by a Chinese citizen with the initials CZ (61), the perpetrator accompanied by Indonesian citizens with the initials JA (52) and SS at the time carry out the application process Indonesian passport , apply priority walk-in service . JA said CZ is person with disabilities disability , namely Head of Intelligence and Enforcement Immigration Yuris Setiawan revealed on his actions third perpetrator charged with Article 126 letter c of the Law Number 6 of 2011 Concerning Immigration . With thus can concluded that the perpetrators who helped perpetrator main in operate the action in cases I, II, and III above can also be ensnared with the same article if the perpetrators the in condition aware and knowing that the perpetrator's statement main give is false .. Enforcement law just punishment must reach all over parties involved in action criminal , including the party who orders and helps , uses realize justice substantive and effectiveness system justice criminal . (Rahardjo, 2021)

## CONCLUSION

Based on results research and discussion above , then can writer conclude that :

1. Immigration PPNS own authority full For investigate action criminal immigration based on Articles 105–107 of the Immigration Law . However, in practice , especially in Decision 402/ Pid.Sus /2020/PN Plk , PPNS has not optimally implemented principle inclusion Because only set perpetrator direct as suspect , while the party who instructed and helped No processed although tool proof has available . This show the need strengthening implementation investigation so that the PPNS authority can run smoothly effective and comprehensive ..
2. Accountability criminal in case forgery identity has implemented to perpetrator main (MEW), which is proven violated Article 126 letter c of the Immigration Law and was sentenced 6 months imprisonment imprisonment and fines . However the party who advocates (YX) and the party who helps (G) does not set as suspect although his involvement proven in decision . This is cause imbalance enforcement law and show that principle inclusion Not yet implemented in a way comprehensive in case immigration .

## SUGGESTION

Enforcement law to action criminal forgery identity in manufacturing Document Journey The Republic of Indonesia needs done in a way more comprehensive with optimize implementation principle inclusion *deelneming* Immigration PPNS together with law enforcement officers law other should No only emphasize accountability criminal penalties for perpetrators direct , but also ensnaring parties who advocate and help , throughout supported by evidence enough start , to use realize substantive justice . In addition that , is necessary strengthening coordination inter-agency as well as improvement internal supervision in agencies administration population for falsification identity can prevented since stage beginning . In the future , the formation Constitution expected can do improvement regulations immigration which is firm arrange accountability criminal for perpetrator participation , so that creation certainty law and effectiveness enforcement law .

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