

REGULATION OF THE PRESIDENT OF THE REPUBLIC OF INDONESIA
NUMBER 125 YEAR 2016
CONCERNING
THE HANDLING OF FOREIGN REFUGEES

BY THE GRACE OF GOD THE ALMIGHTY
PRESIDENT OF THE REPUBLIC OF INDONESIA

Taking into consideration whereas, to implement the provision of Article 27 paragraph (2) of Law Number 37 of 1999 on Foreign Relations, it is necessary to enact a Presidential Regulation on the Handling of Foreign Refugees;

Recalling 1. Article 4 paragraph (1) of the 1945 Constitution of the Republic of Indonesia;
2. Law Number 37 of 1999 on Foreign Relations (State Gazette of the Republic of Indonesia of 1999 Number 156, Supplemental State Gazette of the Republic of Indonesia Number 3882);

HAS DECREED

To enact PRESIDENTIAL REGULATION ON THE HANDLING OF FOREIGN REFUGEES

CHAPTER I
GENERAL PROVISIONS

Article 1

For the purpose of this Presidential Regulation:

1. Foreign refugee, hereinafter referred to as refugee, shall mean a foreigner who resides within the territory of the Republic of Indonesia due to a well-founded fear of persecution due to race, ethnicity, religion, nationality, membership of a particular social group, and different political opinions, and does not wish to avail him/herself of protection from their country of origin and/or has been granted the status of asylum-seeker or refugee by the United Nations through the United Nations High Commissioner for Refugees.
2. Voluntary return is an activity to return a refugee to his/her country of origin voluntarily.
3. Consular notification is an official communication conveyed by the minister in charge of foreign relations and politics to the representation of a foreign country or vice versa, containing a notification regarding a foreigner who is in distress or who is deceased.
4. Search and rescue is any undertaking and activity of searching, assisting, rescuing or evacuation of people in emergency situations and/or in danger caused by an accident, disaster, or any condition that endangers human life.
5. Minister refers to the minister coordinating matters on politics, law and security.
6. Immigration Detention Center is a unit operating under the ministry in charge of law and human rights affairs that provides the detention of foreigners.
7. Immigration Office is a unit operating under the ministry in charge of law and human rights affairs that handles immigration related matters.

Article 2

- (1) The handling of refugees is carried out pursuant to cooperation between the central government with the United Nations through the United Nations High Commissioner for Refugees in Indonesia and/or international organizations.
- (2) The international organization as referred in paragraph (1) is the international organization engaged in the area of migration or humanitarian affairs operating under an agreement with the central government.

Article 3

The handling of refugees must duly observe generally applied international provisions and be in accordance with the provisions of laws and regulations.

Article 4

- (1) The handling of refugees is coordinated by the minister.
- (2) Coordination as referred to in paragraph (1) is carried out for the purpose of formulating policies, to cover:
 - a. Finding;
 - b. Placement;
 - c. Safeguarding; and
 - d. Immigration supervision.
- (3) In the formulation of policies as referred to in paragraph (2), the minister in charge of foreign relations and politics shall submit policy considerations to the minister.

CHAPTER II

DETECTION

Article 5

The finding of refugees in emergency situations in Indonesian waters is coordinated and carried out by the agency in charge of search and rescue.

Article 6

The agency in charge of matters relating to search and rescue carries out search and rescue operations on boats suspected of carrying refugees that transmit distress calls.

Article 7

Search and rescue operations as referred to in Article 6 may involve relevant institutions, including:

- a. Indonesian Armed Forces;
- b. Indonesian National Police;
- c. Ministry in charge of handling government affairs on transportation;

- d. Agency in charge of maritime security and safety, or the agency referred to as the Maritime Security Agency;
- e. Other ministries or non-ministerial government agencies in charge of handling sea affairs within Indonesian territory.

Article 8

- (1) The relevant agency referenced in Article 7 that detects refugees encountering emergency situations coordinates with the agency in charge of search and rescue.
- (2) Local communities that find refugees in emergency situations shall report to the agency in charge of search and rescue.

Article 9

- (1) Refugees found in emergency situations must immediately be subjected to the following measures:
 - a. To transfer of the refugees to a rescue vessel if the carrying boat is about to go under;
 - b. To take the refugees to the nearest port or shore if the lives of the refugees are in danger;
 - c. To identify refugees in need of emergency medical attention;
 - d. To hand over foreigners suspected of being refugees to the Immigration Detention Facility located at the nearest port or shore.

Article 10

In the event there is no Immigration detention center at the nearest port or shore as referred to in Article 9 paragraph d, the refugees shall be handed over to the local immigration office.

Article 11

In the event the nearest port or shore does not have an Immigration Detention Center as referred to in Article 9 paragraph d or an immigration office as referred to in Article 10, the refugees shall be handed over to the local Indonesia National Police office.

Article 12

The immigration office as referred to in Article 10 and the Indonesia National Police office receiving refugees shall immediately contact the Immigration Detention Center within its jurisdiction for the transfer of the refugees.

Article 13

- (1) The actions as referred to in Article 9 paragraph d, Article 10, Article 11, and Article 12 shall be stated in an investigation report.
- (2) Officials at the Immigration Detention Center shall collect data by way of examining:
 - a. Travel documents;
 - b. Immigration status; and
 - c. Identity.
- (3) If based on the examination as referred to in paragraph (2) a foreigner declares himself/herself to be a refugee, the officials at the Immigration Detention Center shall coordinate with the United Nations through the United Nations High Commissioner for Refugees in Indonesia.

Article 14

In the event a refugee as referred to in Article 5 is found to be deceased, the agency in charge of search and rescue operations shall coordinate with:

- a. The Indonesia National Police through its disaster victim identification team to conduct the identification process; and
- b. The ministry in charge of law and human rights affairs through the Immigration Detention Center in order to acquire data.

Article 15

The disaster victim identification team and the Immigration Detention Center as referred to in Article 14 shall relay the information taken from the identification and data collection process to the ministry in charge of foreign relations and politics.

Article 16

- (1) Based on information as referred to in Article 15, the minister in charge of foreign relations and politics shall deliver a consular notification containing information on the death and the handling of the victim's remains to the diplomatic mission of the victim's country of origin.
- (2) Where the victim's country of origin consents for the burial to be conducted within Indonesian territory, the Indonesia National Police in coordination with the regency/municipal government shall arrange for the burial of the deceased victim.
- (3) If within 24 hours the victim's country of origin fails to provide clarification as to the handling of the victim's remains, the Indonesia National Police shall coordinate with the regent/municipal government to arrange for the burial of the victim's remains.
- (4) In the event of a request from the victim's family for the return of the remains to the country of origin, whilst the diplomatic mission of such country is unable to process the return, the minister in charge of foreign relations and politics shall collaborate with the international organization engaged in humanitarian affairs to return the victim's remains.

Article 17

Further provisions on procedure of finding refugees in emergency situations in Indonesian waters shall be provided under a regulation of the head of the agency in charge of search and rescue, in coordination with the minister.

Article 18

- (1) The related agency that finds refugees on land shall coordinate with the Indonesian National Police for the purpose of securing the situation.
- (2) Local communities that find refugees on land shall report to Indonesian National Police for the purpose of securing the situation.

Article 19

- (1) The Indonesia National Police as referred to in article 18 shall transfer the refugees to an Immigration Detention Center.
- (2) The action as described in paragraph (1) above shall be set forth in an investigation report.

Article 20

- (1) The officials at Immigration Detention Center shall collect data by way of examining:
 - a. Travel documents;
 - b. Immigration status; and
 - c. Identity.
- (2) In the event the examination as referred to in paragraph (1) identifies a foreigner who declares himself/herself as a refugee, the officials at Immigration Detention Center shall coordinate with the United Nations through the United Nations High Commissioner for Refugees in Indonesia.

Article 21

- (1) In the event a refugee as referred to in Article 18 is found to be deceased, the Indonesia National Police shall deploy the disaster victim identification team to conduct an identification process.
- (2) The Indonesia National Police coordinates with the ministry in charge of law and human rights affairs through the Immigration Detention Center for data collection.

Article 22

The disaster victim identification team and the Immigration Detention Center as referred to in Article 21 shall communicate the information from the identification and data collection process to the ministry in charge of foreign relations and politics.

Article 23

- (1) Based on the information as referred in Article 22, the minister in charge of foreign relations and politics conveys a consular notification containing information regarding the death and handling of the victim's remains to the diplomatic mission of the victim's country of origin.
- (2) In the event the victim's country of origin consents to a burial within Indonesian territory, Indonesian National Police coordinates with the relevant regency/municipal government to arrange the burial of the victim.

- (3) If within 24 hours the victim's country of origin fails to provide clarification as to the handling of the victim's remains, the Indonesia National Police coordinates with the relevant regency/municipal government to arrange the burial of the victim.
- (4) In the event of a request from the family of the victim for the return of the victim's remains to the country of origin, whilst the diplomatic mission of the victim's country of origin is unable to process the return, the minister in charge of foreign relations and politics collaborates with the international organization engaged in humanitarian affairs to arrange the return of the victim's remains.

CHAPTER III

SHELTER

Article 24

- (1) The Immigration Detention Center coordinates with the local regency/municipal government to transport and place refugees from the place of finding to a shelter.
- (2) In the event a shelter is unavailable, the refugees may be placed in a temporary shelter.
- (3) The temporary shelter referred in paragraph (2) shall be determined by the head of regency/mayor.
- (4) In the event the local government utilizes local government property as shelter for the refugees, such utilization shall be under an arrangement of loan/use between the local government and the minister as representative of the central Government, in accordance with the relevant laws and regulations.

Article 25

Placement of a Refugee at the shelter shall be in accordance with the following procedure:

- a. The Transfer of refugees by the Immigration Detention Center to an official designated by the relevant regency/municipal government accompanied by a report documenting the handover of the refugees' personal property, enclosed with a receipt for such property, excluding the immigration documents comprising of travel documents, stay permit, and visa;
- b. The acceptance of refugees at the shelter shall be recorded in the facility's register book;
- c. The custody and handover of personal property belonging to the refugees shall be recorded in the register book for property custody and handover;

- d. The recording of refugees temporarily leaving the shelter shall be recorded in the temporary exit/entry ledger;
- e. The placement of refugees in rooms shall take into account family relations, gender, age, nationality, race, ethnicity, and religion;
- f. The separation of refugees suffering from communicable and critical diseases for referral to a hospital or other healthcare facility;
- g. Issuance of special identity cards for refugees by the Immigration Detention Center; and
- h. Establishment of rules of conduct at the shelter by the designated official as referred to in sub-article a.

Article 26

- (1) The relevant reGENCY/municipal government determines the shelter for refugees.
- (2) The shelter for refugees as referred in paragraph (1) shall meet the following criteria:
 - a. In close proximity to a healthcare facility and religious facility;
 - b. Situated within the same reGENCY/city as the Immigration Detention Center; and
 - c. With adequate security conditions.
- (3) The shelter as referred to in paragraph (1) may be facilitated by an international organization engaged in the field of migration through the ministry in charge of law and human rights affairs in coordination with the minister.
- (4) Facilitation by the international organization as referred to in paragraph (3) shall be in the form of the provisions of basic necessities for the refugees placed in the shelter.
- (5) Provision of basic necessities as referred to in paragraph (4) shall comprise of at least the following:
 - a. Supply of clean water;
 - b. Provision of food, drinks, and clothing;
 - c. Healthcare and hygiene; and
 - d. Religious facilities.
- (6) In the event healthcare and religious facilities as referred to in paragraph (5) sub-paragraphs c and d are not available, the relevant reGENCY/municipal government may provide it outside the shelter by taking into account their proximity to the shelter.

Article 27

- (1) Refugees with special needs may be placed outside the shelter facilitated by the international organization engaged in activities in the field of migration, subject to approval from the minister in charge of law and human rights affairs through the relevant unit administrating immigration matters.
- (2) The requirement to obtain approval as referred to in paragraph (1) shall be exempted during emergency situations and for placement outside a shelter that is still within the same regency/city.
- (3) Refugees with special needs as referred to in paragraph (1) are refugees who are:
 - a. Ill;
 - b. Pregnant;
 - c. Suffering from disability;
 - d. Children; and
 - e. Elderly.
- (4) Placement outside a shelter for refugees with special needs referenced in paragraph (3) shall be aimed at providing special care, provided that:
 - a. Such care is given by medical personnel in accordance with the need;
 - b. Refugee children are provided with care with the best interest of the child in mind;
 - c. Refugees suffering from illness and in need of care shall be placed in a medical facility; and
 - d. Refugees suffering from communicable and critical diseases shall be referred to a hospital or other specific healthcare facility.

Article 28

- (1) Refugees may be transferred from one shelter to another to facilitate family reunification, treatment at a hospital, and resettlement.
- (2) Transfer of refugees as referred to in paragraph (1) shall be coordinated by the Immigration Detention Center.
- (3) Transfer of refugees as referred to in paragraph (1) may be facilitated by the international organization engaged in activities in the field of migration subject to approval from the minister in charge of law and human rights affairs through the Immigration Office.

Article 29

- (1) Asylum-seekers whose refugee status applications have been rejected at first instance and have been finally rejected by the United Nations through the United Nations High Commissioner for Refugees are placed in the Immigration Detention Center for voluntary return or deportation in accordance with the prevailing laws and regulations.
- (2) In addition to asylum-seekers whose refugee status applications have been rejected at first instance and have been finally rejected as referred to in paragraph (1), refugees in the process of resettlement to a third country may also be placed in the Immigration Detention Center.

Article 30

- (1) Every refugee shall comply with the rules of conduct adopted at the shelter as referred to in Article 25 sub-article h, the customs of local community, and the relevant laws and regulations.
- (2) Any foreigner who is a refugee yet fails to comply with the rules of conduct adopted at the shelter and the local customs as referred to in paragraph (1) shall be subject to a special placement.
- (3) Special placement as referred in paragraph (2) shall be provided in the rules of conduct of the shelter as referred to in Article 25 sub-article h.
- (4) Any refugee failing to comply with the laws and regulations as referred to in paragraph (1) shall be prosecuted in accordance with the applicable laws and regulations.

CHAPTER IV
SAFEGUARDING

Article 31

- (1) The safeguarding of refugees upon finding shall be carried out by the Indonesian National Police.
- (2) Relevant government agencies and local communities finding refugees shall undertake the necessary security measures and coordinate with or report to the Indonesian National Police.

- (3) The relevant government agency as referred to in paragraph (2) shall be responsible for creating a secure conditions in order to avoid any incident of a criminal nature.

Article 32

The safeguarding of refugees at the shelter shall be carried out by officers designated under Article 25 paragraph a, in coordination with the local police, [with the following objectives]:

- a. To ensure that refugees shall remain at the shelter;
- b. To create a sense of security for the community surrounding the holding facility;
- c. To establish and disseminate rules of conduct setting forth obligations and restrictions for the refugees to comply with.

CHAPTER V

IMMIGRATION SUPERVISION

Article 33

- (1) The officials at Immigration Detention Center shall conduct immigration supervision on the refugees.
- (2) Immigration supervision on the refugees as referred to in paragraph (1) shall be conducted upon finding, at the shelter and outside the shelter, during resettlement to the country of destination, voluntary return, and deportation.

Article 34

Immigration supervision on refugees during finding shall be conducted through examination and data collection as referred to in Article 13 paragraph (2) and Article 20 paragraph (1).

Article 35

Immigration supervision at the shelter and outside the shelter shall be conducted through:

- a. Re-verification of identity and refugee documentation as well as taking the refugees' photos and fingerprints;
- b. Taking the statements and recording of such statements in an investigation report and statement report for refugees to be placed in an Immigration Detention Center; and

- c. Issuance of certifications or identity cards for refugees by the head of the Immigration Detention Center as referred to in sub-article b, and the document shall be valid for one (1) year and which can be renewed annually.

Article 36

- (1) Refugees must report on monthly basis with the head of the Immigration Detention Center as referred to in Article 35 sub-article c and obtain a stamp on their special identification at the shelter.
- (2) Refugees who fail to report on three (3) consecutive occasions without any acceptable justification shall be placed at the Immigration Detention Center.

Article 37

Immigration supervision of refugees who are to be resettled to the third country shall be conducted through:

- a. Receipt of notice of approval from the United Nations High Commissioner for Refugees in Indonesia, containing the name of the refugees approved for resettlement to the third country;
- b. The finalization of departure administrative procedures through the issuance of a no-reentry exit permit on the travel document; and
- c. Escorting such refugee during transfer from the shelter to the nearest immigration check point.

Article 38

- (1) Immigration supervision of refugees for the purpose of voluntary return shall be conducted by way of:
 - a. Receipt of request from the refugee to be voluntarily returned to their country of origin;
 - b. The finalization of departure administrative procedures through the issuance of a no-reentry exit permit on the travel document; and
 - c. Escorting such refugee during transfer from the shelter to the nearest immigration check point.
- (2) Voluntary return as referred to in paragraph (1) shall be conducted in accordance with the applicable laws and regulations.

Article 39

Immigration supervision of asylum-seekers whose application for refugee status has been rejected by the United Nations acting through the United Nations High Commissioner for Refugees in Indonesia shall be conducted by way of:

- a. Receipt of notice of rejection of refugee status by the United Nations acting through the United Nations High Commissioner for Refugees in Indonesia;
- b. Coordination with the designated official as referred to in Article 25 sub-article for the release of the asylum-seeker whose refugee status application has been rejected from the shelter and relocation to the Immigration Detention Center.
- c. Preparation of administrative requirement for deportation from Indonesian territory; and
- d. Escort during deportation to the nearest immigration inspection point.

CHAPTER VI

FUNDING

Article 40

Funding required for the handling of refugees can be taken from:

- a. The state budget through the relevant ministry/agency; and/or
- b. Other legal and unbinding sources in accordance with the prevailing laws and regulations;

CHAPTER VII

OTHER PROVISIONS

Article 41

At every stage of the refugee handling process, refugees shall be separated from people smuggling groups.

Article 42

- (1) The minister in charge of foreign relations and politics shall collaborate with the minister in charge of law and human rights affairs and the United Nations through the United Nations High Commissioner for Refugees in Indonesia to provide data and information on refugees to the Minister.

- (2) Data and information on refugees as referred to in paragraph (1) shall also be provided to:
 - a. Minister in charge of home affairs;
 - b. Minister in charge of law and human rights affairs;
 - c. Indonesian National Police; and/or
 - d. Agency in charge of maritime security and safety or as referred to the Maritime Security Agency.
- (3) Data and information referenced in paragraph (1) consists of:
 - a. Data on refugees from Immigration Detention Center;
 - b. Data on refugees registered with the United Nations through the United Nations High Commissioner for Refugees in Indonesia;
 - c. Data on refugees who have been approved for resettlement in a third country;
 - d. Data on asylum-seekers whose applications have been rejected at first instance and have been finally rejected; and
 - e. Data on refugees who are returning voluntarily to their country of origin.

Article 43

- (1) In the event an Immigration Detention Center is to conduct a voluntary return or deportation of a detainee without travel documents, Immigration Detention Center shall coordinate with the ministry in charge of foreign relations and politics.
- (2) The ministry in charge of foreign relations and politics shall coordinate with the representative office of the country of origin in Indonesia or whose area of representation includes Indonesia, to provide travel documents and facilitate the return of refugees whose applications are rejected at first instance and are finally rejected and asylum seekers who are willing to be returned.
- (3) In the event the representative mission of the refugee's country of origin is unable to facilitate the return, the minister in charge of legal and human rights affairs shall collaborate with the United Nations through the United Nations High Commissioner for Refugees and/or the international organization engaged in activities in the field of migration to facilitate the return of the refugees.

Article 44

Other relevant ministries/agencies may be involved in the handling of refugees in accordance with their respective mandates and functions.

CHAPTER VIII

CLOSING

Article 45

This Presidential Regulation shall come into force upon the date of promulgation.

In order for everyone to recognize it, ordering the enactment of this Presidential Regulation with its placement in the State Gazette of the Republic of Indonesia.

Endorsed in Jakarta
on 31 December 2016

THE PRESIDENT OF THE
REPUBLIC OF INDONESIA,

signed
JOKO WIDODO

Promulgated in Jakarta
on 31 Desember 2016

MINISTER OF LAW AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA

signed

YASONNA H. LAOLY

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 2016 NUMBER 368

Copy conforms to the original
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M.Rokib