

TRAVEL WARNING IN INTERNATIONAL LAW PERSPECTIVE

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ABSTRACT

Travel warning is issued if a country finds it necessary to inform its people to consider very carefully whether they should go to any insecure countries at all. Issuing warnings are mostly done by certain countries with aims to avoid their citizens from threats or problems that can halt their trips or even endanger their lives. In international law, either diplomatic, consular, or international relations are inevitable, and they have been stipulated in the Montevideo Convention of 1933. In the diplomatic and consular relations, every country has agreed to cooperate both in politics and non-politics based on the principles of good neighborliness. Each country is responsible for providing security and protection to its citizens and foreign nationals residing in its territory. Does travel warning oppose international law, particularly the diplomatic and consular relations? Although the issuance of warning is the right of any countries in the world, what are the impacts of the travel warning? This article will discuss travel warnings in the perspective of international law.

Keywords: travel warning, international law, diplomatic, consular relations.

Introduction

The 1933 Montevideo Convention states: The State as a person of international law should possess the following qualification: (a) a permanent population; (b) a defined territory; (c) government; (d) capacity to enter into the relations with the other states. According to Parthianan, four elements can be divided into two main elements, namely first, the real or factual elements are elements of the population, territory, and government. Second, elements that are unreal or those that are physically difficult to be observed because their natures are relative and subjective, i.e. the capacity to enter into relations with the other states.

The ability to establish international law relations with other countries are certainly not going to emerge by itself, but it requires a long process through the recognition of other countries on the existence of the country itself. The recognition of the international community contains law values, which underlie the existence of a state either de facto or de jure. The ability of a country to establish legal relations with the other subjects of international law can be seen as a manifestation of state sovereignty, especially the external sovereignty. This is one of the state authorities in establishing the international legal relationships. On the other hand, the internal sovereignty is not a determining factor of the existence of a state; therefore, international law does not deal directly with any domestic problems of each country (Hadiwijoyo; 2011).

The Article 74 in the United Nations Charter mentions the principle of good neighbourliness that must be obeyed by the countries of the UN member in terms of social, economic, and trade. The principle implies broad meaning that makes it one of the reasons or basis for developing diplomatic relationship and bilateral consular besides the international inter-agency cooperations, both within and outside the UN structures (Widagdo&Widhiyanti; 2008).

In the establishment of diplomatic and consular relationships in international law, an agreement between the two countries (mutual consent) is mandatory, and it has been stipulated in the Vienna Convention of 1961 and 1963. Each country has the right to establish cooperation with other countries if it is required by both parties. However, the diplomatic and consular relations of a country might not always work well with other countries; it causes the relationship becomes awkward, for example, a state issues a Travel Warning policy to other countries that are considered unstable government and might encounter ongoing intense crime or violence.

The issuance of travel warnings are not definitely desired by any countries because they affect many things. For instance, a travel warning can give deep influence on the tourism sector of the issued country. Travel warning advises citizens of the issuance warning strongly consider not going to the released places at all due to risks of traveling. The warnings are usually issued by the government of a country to protect its citizens from threats that may happen in the country. Are the issuance of travel warnings prohibited by the international law?

Research Methods

Based on the features of legal research, Soekarno (1986,p.10) ategorizes it into three types, namely:

1. Exploratory research is conducted if knowledge about a phenomenon that will be investigated is none or still lacking.
2. Descriptive study is done to provide accurate data about people, circumstances, or other symptoms.
3. Explanatory research is research that is intended to test specific hypotheses.

Viewing from the objectives, legal research is divided into two categories (Soekarno & Mamudji, 2003, p.14) they are:

1. The literature research is done by researching library materials or secondary data.
2. The empirical or sociological legal research is conducted primarily by examining primary data.

Based on the category of the types of research, this research employed descriptive design that is intended to provide a clear picture of a country's reasons to issue a travel warning to a state in the perspective of international law. The objective of the present research is normative law, of which the data were obtained through the study of documents or literature by examining library materials, such as: books, international conventions, international agreements, papers, journals, articles, newspapers as well as internet sites related to the object under study.

Travel Warning Policy In The Perspective Of International Law

The issuance of travel warning policies from one country to another is common in the diplomatic relations of a country. The purpose is to advize or warn its citizens who are traveling to an unstable government, insecure places in certain countries.

This has been done by Indonesia, the Government of the Republic of Indonesia through the Ministry of Foreign Affairs condemned the acts of terrorism in the form of hostage-taking at a grocery store called Hyper Cache, in Paris, France, which resulted five people were killed, including hostage and four others injured severely. Action hostage at the grocery store was associated with the previous terror acts, i.e. the attack to Charlie Hebdo magazine office in Paris that killed 12 people, and the shot of a policewoman and a civil servant. Considering these two successive acts of terrorism that took place in Paris, France, the Ministry of Foreign Affairs issued warning (travel warning) to Indonesian citizens who are traveling to France or other European countries to be careful (Ministry of Foreign Affairs Idonesia, 2014, www.kemlu.go.id)

Meanwhile, the Republic of Indonesia currently received travel warning from Australia and the United States. The Australian government issued a travel warning or alert for its citizens not to travel to Indonesia. The government of Australia warned its citizens to be very careful as they claimed of having accurate intelligence information related to potential terrorist attacks in Indonesia. The warning was posted on the official website of the Ministry of Foreign Affairs and Trade (DFAT). To the same extent, on January 3, 2015, the U.S. government warned potential threats to hotels and banks related to the US in Surabaya.

The Australian Foreign Minister, Julie Bishop, stated that Australians should always be vigilant when traveling abroad, particularly in the areas of terrorist activities in Indonesia. "We continue receiving information that indicates terrorists are planning attacks in Terrorist groups, in which according to Bishop, are still active throughout Indonesia although the police have raided these kinds of group several times. The police keep doing operations against these groups and declare openly that terrorist suspects are still trying to attack targets of Western countries. Australians are also asked to avoid staying at insecure places like demonstrations and mass action." Bishop further said that Australia continues monitoring the security in Indonesia meticulously (Suryanto; 2015).

The Travel Warning that was imposed on Indonesia by the government of Australia really impacted economy, where the policy can reduce the numbers of Australians to visit Indonesia, especially Bali. Large numbers of Australians usually come for vacation to Bali and to the other regions in Indonesia every year.

The effect that is caused by the issuance of travel warnings can contribute to significant decreasing of tourists or travelers to come to the country that is given the travel warning. But, in fact, issuing a travel warning is not prohibited by international law, especially the diplomatic and consular laws. Travel warning is not a form of enemy or hatred against other countries; it is necessarily issued to give a warning to people to always become cautious when traveling to any insecure places, unstable government, and on going conflict or war as well as suspicious terrorists attacks.

Conclusion

In conclusion, travel warning is not an exceptional case in the international world and the policy is usually carried out by sovereign states and the states are obliged to provide warning and protection to their people. In such a case, the countries want to ensure that their citizens who are away to the classified areas are safe. Alerts or warnings are common practices in the international relations and they not prohibited by international law at all.

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