

# ARE AVIATION REGULATIONS EFFECTIVE IN MANAGING FOREIGN AIRCRAFT VIOLATIONS IN INDONESIA?

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## *Abstract*

*Sovereignty is an essential thing for a country to maintain, and every country has exclusive jurisdiction and authority to control the air space above its territory, Indonesia is a country that has a large area, but with a large area that is owned if it is not used and maintained correctly it will become a threat to its sovereignty, as evidenced by the existence of cases of airspace violations every year, one of which is carried out by foreign aircraft in Indonesian airspace at this time. This study aims to determine how regulations or rules and law enforcement in airspace violations by foreign aircraft in Indonesia are increasing and what the causes or factors are in the increase in these violations. This is legal research with a normative perspective, a statutory approach, a conceptual approach, and interviews. The results of study explain that there are legal rules that are used in carrying out law enforcement and control of air space in Indonesia's territory. However, these rules are considered ineffective, and because the ineffectiveness of the existing rules affects law enforcement, the impact on law enforcement could be more optimal—committed for violations of foreign aircraft in the territory of Indonesia.*

**Keywords:** *Sovereignty; Regulatory Effectiveness; Law Enforcement; Foreign Aircraft Violations*

## 1. Introduction

Jurgen Habermas consider sovereignty as the most important aspect for a state.<sup>1</sup> A state can be said to be sovereign if the state has the highest authority.<sup>2</sup> Indonesia, as a sovereign country, by the 1944 Chicago Convention, has complete sovereignty over its airspace,<sup>3</sup> Based on the mandate in the 1945 Constitution of the Republic of Indonesia, Indonesia is the Archipelagic State of the Republic of Indonesia. It has sovereignty over its territory to be managed and utilized as much as possible for the welfare and prosperity of the Indonesian people.

Air space has an essential meaning for a country in terms of territorial integrity, national security, and defense aspects, which must be utilized as well as possible; apart from that, air space also has a very strategic function, namely to become a state asset whose interests are for national security and defense, because its natural resources are also a container or media space for a country

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<sup>1</sup> George Duke, "Habermas, Popular Sovereignty, and the Legitimacy of Law," *Law and Critique*, no. September (2023), <https://doi.org/10.1007/s10978-023-09358-1>.

<sup>2</sup> Mochtar Kusumaatmadja and Etty R. Agoes, *Pengantar Hukum Internasional* (Bandung: Alumni, 2003), 16.

<sup>3</sup> Baiq Setiani, "Konsep Kedaulatan Negara Di Ruang Udara Dan Upaya Penegakan Pelanggaran Kedaulatan Oleh Pesawat Udara Asing," *Jurnal Konstitusi* 14, no. 3 (2017): 493.

to exercise its sovereignty, sovereign rights and jurisdiction.<sup>4</sup>

Airspace violations are a profoundly serious matter in international relations. In this case, the violated country whose air sovereignty can ambush or intercept a foreign aircraft and ask it to land. Using force against a foreign aircraft guilty of this violation is an appropriate legal action under international law so long as precautions are taken.<sup>5</sup> Regarding violations of Indonesian airspace, the sanctions imposed on those who commit these violations are exceedingly minor compared to the operational costs incurred by the Indonesian Air Force (TNI AU).

In addition, the court case against the airline operator can only proceed with a lack of Indonesian regulations. According to the Department of Transportation, all airspace violations must be prosecuted through arrest, investigation, and prosecution, but so far, the perpetrators have not been brought to justice. This shows that it is essential to conduct a thorough evaluation related to regulations and law enforcement in violations of the national territory because the current policies and authorities are considered only as a form of completing permit administration.<sup>6</sup>

According to the National Air Defense Command (Kohanudnas) of the Indonesian Air Force, there were 1583 foreign aircraft violations in Indonesian airspace in 2020, consisting of 1563 foreign military aircraft (1555 from Singapore, 7 United States, and one case from the Philippines) and eighteen foreign aircraft. Civilians, whereas in 2021, there were 1054 violations, 1047 of which were committed by foreign military aircraft (from Singapore 1042, England 1, and Lasa X 4 violations), and seven violations were committed by foreign civilian aircraft, while the most recent violation case occurred on June 2, 2022. An unscheduled foreign civil aircraft with the callsign VP-CPY belonging to the Cayman Islands state airline with the Manila - Seletar route has committed a violation in Indonesian national airspace, which is still under the control of the Singapore FIR and in the Aeronautical Information Publication (AIP) Singapore.<sup>7</sup>

For the last 2 years, airspace violations by foreign aircraft have been dominated by foreign military aircraft conducted by the state of Singapore; Indonesia can face various losses and threats if violations of Indonesian airspace management are not responded to with severe sanctions in its rules and regulations. These potential losses include the weakening of the authority of the

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<sup>4</sup> Desi Yunitasari, "Penegakan Pelanggaran Kedaulatan Oleh Pesawat Sipil Asing Di Wilayah Yurisdiksi Nasional," *Jurnal Media Komunikasi Pendidikan Pancasila Dan Kewarganegaraan* 2, no. 1 (2020): 36.

<sup>5</sup> Yunitasari, "Penegakan Pelanggaran Kedaulatan Oleh Pesawat Sipil Asing Di Wilayah Yurisdiksi Nasional."

<sup>6</sup> Danang Risdiarto, "Kendala Hukum Penindakan Terhadap Pesawat Udara Sipil Asing Tidak Berizin Yang Memasuki Wilayah Udara Indonesia," *Jurnal Legislasi Indonesia* 16, no. 3 (2019): 354–55.

<sup>7</sup> the Indonesian Air Force's national air operations command, "Interviews with the Law Enforcement Section of the Indonesian Air Force's National Air Operations Command," (n.d.).

Indonesian government in the eyes of the international community and the Indonesian people's prediction by the international community as weak in maintaining their territorial sovereignty. In addition, those who violate Indonesian airspace may repeat their actions in the future due to the low level of sanctions imposed.<sup>8</sup>

According to Prabandari, one of Indonesia's air sovereignty issues in the global era is the prevention and suppression of airspace violation incidents.<sup>9</sup> In line with Humaira, Indonesia failed to take over the Flight Information Region (FIR) from Singapore in 2015-2019.<sup>10</sup> Askari Razak stated some legal problems to defend against black flight in Indonesian Jurisdiction,<sup>11</sup> But did not do in-depth interviews with field executives in national security defense like the Indonesian national army. Then, the question arises whether regulations in Indonesia are effective in dealing with the problem of foreign aircraft violations. Therefore, a country's rule of law must address foreign airspace violations effectively. From the description above, the formulation of the problem in this study is to discuss how effective the rules governing law enforcement are for violations of Indonesian airspace.

## **2. Method**

In this study, the research method used by the author is the statutory approach by examining the regulations concerned with the legal issues, conducting interviews with relevant sources, and using a conceptual approach; this approach is conducted by examining cases related to the issues at hand.<sup>12</sup>

## **3. Results and Discussion**

According to Lawrence M. Friedman, the effectiveness of law in prosecution and law enforcement is detected by three factors of the legal system: 1) legal structure, 2) legal substance, and 3) legal culture. In terms of his work with law enforcement officials, the substance of the law

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<sup>8</sup> Risdiarto, "Kendala Hukum Penindakan Terhadap Pesawat Udara Sipil Asing Tidak Berizin Yang Memasuki Wilayah Udara Indonesia."

<sup>9</sup> Adya Paramita Prabandari, "Indonesia's Air Sovereignty Issues In The Global Era," *Diponegoro Law Review* 4, no. 2 (2019): 181.

<sup>10</sup> Nabyla Humaira, Adwani Adwani, and M. Yakub Aiyub Kadir, "Whether Sovereignty?: The Failure of Indonesia in Taking Over Flight Information Region from Singapore 2015-2019," *Udayana Journal of Law and Culture* 5, no. 2 (2021): 185.

<sup>11</sup> Askari Razak, Yuda Bosniawan H, and Hambali Thalib, "Penanganan Pelanggaran Pesawat Asing Tidak Berizin (Black Flight) Di Wilayah Yurisdiksi Nasional," *Journal of Lex Philosophy* 3, no. 2 (2022): 144–57.

<sup>12</sup> Amiruddin Amiruddin and Zainal Asikin, *Pengantar Metode Penelitian Hukum* (Jakarta: RajaGrafindo Persada, 2018), 165.

includes statutory instruments, and the legal culture is the law that exists and lives. It is adhered to in a community and society. So, the effectiveness of aviation law in law enforcement for violations of Indonesian territorial airspace by foreign aircraft is measured from these three factors to determine whether the law is successful or effective.<sup>13</sup>

### **3.1. Rules – National and International Airspace Rules**

Essential - legal basis in the implementation of law enforcement (Law Enforcement) and Air Space Control (Air Space Control) in Indonesia.

#### **3.1.1. Air Sovereignty Territory of the Republic of Indonesia<sup>14</sup>**

Even though the 1944 Chicago Convention is a convention on international civil aviation, articles 1 and 2 have been accepted as general principles/ground norms in international air law.

- a) UNITED CONVENTION LAW OF THE SEA (UNCLOS) 1982, ratified by Law No. 17 of 1985 concerning the Ratification of the United Nations Convention on the Law of the Sea

The provisions of Article 2 paragraph (2) in this convention underlies that the sovereignty of the airspace of the Republic of Indonesia includes air space over land and waters up to the territorial sea width limit with the limits as regulated in Article 3.

- b) Law No. 1 of 2009 concerning Aviation.

Article 5 of this Law states that the Unitary State of the Republic of Indonesia has complete and exclusive sovereignty over the airspace of the Republic of Indonesia.<sup>15</sup> The airspace boundary refers to the provisions of the 1944 Chicago Convention and the 1982 UNCLOS.

- c) Law No. 6 of 1996 concerning Indonesian Waters

In this provision, the Sovereignty of the Republic of Indonesia in Indonesian waters includes the territorial sea, archipelagic waters, and inland waters as well as the air space above the territorial sea, archipelagic waters, and inland waters, as well as the seabed and soil beneath it including the natural resources contained therein.<sup>16</sup>

Upholding sovereignty and law in Indonesian waters, the air space above it, the seabed

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<sup>13</sup> I Kadek Adi Surya, "Efektivitas Undang-Undang Nomor 1 Tahun 2009 Tentang Penerbangan Khususnya Mengenai Larangan Penggunaan Telepon Genggam Selama Penerbangan Berlangsung," *Ganec Swara* 16, no. 1 (2022): 1325.

<sup>14</sup> "The 1944 Chicago Convention" (1944), pt. Articles 1 and 2.

<sup>15</sup> "Law No. 1 of 2009 Concerning Aviation" (2009), pt. Article 5.

<sup>16</sup> "Law No. 6 of 1996 Concerning Indonesian Waters" (1996), pt. Article 4.

and the land beneath it, including the natural wealth contained therein and sanctions for violations thereof, is carried out by the provisions of other international law conventions and applicable laws and regulations.<sup>17</sup>

- d) Government Regulation No. 4 of 2018 concerning the Security of the Indonesian Airspace

Provisions of Article 1 number 2 of this Law it is explained that airspace outside the territorial area is jurisdictional airspace<sup>18</sup> and is not the sovereign territory of the Republic of Indonesia.

### **3.1.2. Implementation of Foreign Aircraft Passage Rights Over ALKI**

- a) UNITED CONVENTION LAW OF THE SEA (UNCLOS) 1982, ratified by Law No. 17 of 1985 concerning the Ratification of the United Nations Convention on the Law of the Sea

- b) Law No. 6 of 1996 concerning Indonesian Waters

In this provision, archipelagic sea lanes passage is exercising the right of flight in a regular, continuous, direct, expeditious manner and without obstruction.<sup>19</sup> All types of aircraft from foreign countries enjoy the right to archipelagic sea lanes to pass through Indonesian archipelagic waters.<sup>20</sup>

- c) Government Regulation No. 37 of 2002 concerning Rights and Obligations of Foreign Ships and Aircraft in Executing the Right of Archipelagic Sea Lanes Pass through Archipelagic Sea Lanes

- d) Government Regulation No. 4 of 2018 concerning Airspace Security

The following also regulates the obligations of foreign state aircraft to exercise the right to fly over the archipelagic sea lanes in Article 21 paragraph (1) PP No. 4 of 2018.<sup>21</sup> The prohibition on foreign aircraft following routes over the archipelagic sea lanes is:<sup>22</sup> 1) Conduct maneuvers and war exercises; 2) Deviate more than 25 (twenty-five) nautical miles on either side of the archipelagic sea lanes axis line; 3) Flying close to the coast less than 10% (ten percent) of the distance between the nearest points on

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<sup>17</sup> Law No. 6 of 1996 concerning Indonesian Waters.

<sup>18</sup> "Government Regulation No. 4 of 2018 Concerning Airspace Security" (2018), pt. Article 1 paragraph (2).

<sup>19</sup> Law No. 6 of 1996 concerning Indonesian Waters.

<sup>20</sup> Law No. 6 of 1996 concerning Indonesian Waters.

<sup>21</sup> Government Regulation No. 4 of 2018 concerning Airspace Security.

<sup>22</sup> Government Regulation No. 4 of 2018 concerning Airspace Security.

the islands bordering the archipelagic sea lanes. Regarding deviation from the route, it can be done again if you have obtained permission from the air traffic controller.

With the existing legal regulations governing the sovereign territory of the Republic of Indonesia and the implementation of foreign aircraft passage rights over ALKI in Law Number 1 of 2009 concerning Aviation there are no sanctions related to airspace violations, the law only regulates the prohibition and fines for incoming aircraft *prohibited* and restricted area, which states that an aircraft that enters a restricted air area is subject to a maximum penalty of 8 years and a maximum of Rp—500,000,000 (five hundred million rupiah).<sup>23</sup> Meanwhile, foreign aircraft that enter the restricted airspace shall be imprisoned for three years and a maximum fine of Rp—500,000,000 (five hundred million rupiah).<sup>24</sup>

From the above rules, violations of Indonesian air by foreign aircraft cannot be criminally charged and continued with the case and the violation is brought to court because there are no national laws and regulations that regulate, as an investigator, the Ministry of Transportation, who is also an Aviation Civil Servant Investigator, sees violations only violations of permits do not include violations that threaten sovereignty and security, so that is what causes the ministry of transportation to give fines with a low nominal to perpetrators of airspace violations, as we know that so far violators are only given fines Rp—60,000,000 (sixty million rupiah) only, where the nominal is an additional landing fee,<sup>25</sup> even though related to the issue of sanctions for violators in the latest PP regulation number 4 of 2018 it has been written that flights without a permit will be subject to an administrative fine of up to Rp. 5,000,000,000 (five billion rupiah) was given by the organizing minister in the field of transportation, according to the authority.

Incidents of imposing sanctions on violators an amount of Rp. 60,000,000 (sixty million) does not create a deterrent effect for violators. Then, there are still exist foreign aircraft that violate Indonesian territory. This impacts law enforcement, which is not maximal against foreign aircraft that violate Indonesia's sovereign airspace.<sup>26</sup>

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<sup>23</sup> Law No. 1 of 2009 concerning Aviation.

<sup>24</sup> Law No. 1 of 2009 concerning Aviation.

<sup>25</sup> “Regulation of the Director General of Civil Aviation No. SKEP/195/IX/2008 Concerning Flight Approval Instructions” (2008), pt. Article 17 letter b.

<sup>26</sup> Danang Risdiarto, “Penyidik TNI Angkatan Udara Dalam Kasus Pelanggaran Wilayah Udara Yurisdiksi Indonesia Oleh Pesawat Terbang Asing Tidak Terjadwal,” *Jurnal Legislasi Indonesia* 14, no. 1 (2017): pts. 84–87.

National laws and regulations governing the existence of severe sanctions in the form of criminal acts are deemed necessary as an *ultimum remedium* for foreign aircraft and cabin crew who violate the sovereignty of the Indonesian airspace. However, it should be noted that these regulations must be based on existing national and international legal regulations and agreements that Indonesia has with foreign countries.

From the point of view of human rights, the criminal law that will later be included in the regulations will not include the death penalty for including human rights violations. Everyone has the right to life (right to life), which cannot be taken away for any reason or by anyone. The Indonesian state, which has adopted the Universal Declaration of Human Rights (UDHR), must uphold the right to life by upholding Article 3 of the UDHR, which states, "Everyone has the right to life, liberty, and security of person."

### **3.2. Law Enforcement of Foreign Aircraft Violations in Indonesian Territories**

In conducting law enforcement for violations of foreign aircraft in the territory of Indonesia, there are procedures or handling guidelines conducted by the Joint Decree, a joint agreement on handling foreign aircraft after forced landing (Force Down).<sup>27</sup> The violations of foreign aircraft in the territory of Indonesia in the last two years are as explained in Table 1.

This means that based on the description of the Table 1, the number of airspace violations in Indonesia's territory is still relatively high in the last 2 years, namely 2637 violations, which were dominated by neighboring countries, Singapore with 2597 violations, so this is a severe concern in terms of law enforcement by Koopsudnas TNI against violations occurred.

According to data from the Intelligence staff of the Indonesian National Air Defense Command (Kohanudnas), the violation area is also of particular concern apart from the high number of airspace violations. The most frequent violation area in the last two years was the EX-area MTA 2/RSAF with a total of 2597 violations.

The embodiment of law enforcement in the context of maintaining state sovereignty in the air must always be conducted. Currently, the Indonesian Air Force has conducted interceptions to forced landings on foreign aircraft, both civil and state or military, that cross Indonesian airspace

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<sup>27</sup> "Attachment to a Joint Agreement on the Handling of Foreign Aircraft after Forced Landing (Force Down) No KSB/01/II/2020 Dated 24 February 2020" (2020).

without a permit's ownership.<sup>28</sup>

Regarding law enforcement efforts, the investigative authority to manage the issue of violations of foreign aircraft that cross Indonesia's airspace according to Articles 399 and 400 of Law No. 1 of 2009 concerning Aviation is PPNS from the Ministry of Transportation. This impedes the implementation of handling because the Indonesian Air Force conducts interception, pursuit, and temporary investigation for investigators, and punishment is imposed by the Ministry of Transportation, meaning that in the process of law enforcement and handling of these violations, there is dualism, giving rise to differences in solving and acting on this problem. There are changes in the enforcement.<sup>29</sup> This action must give complete trust and authority to the Indonesian Air Force, starting from licensing and handling cases to imposing sanctions or punishments on foreign aircraft that violate the territory of Indonesia. This provision is based on the premise that the Indonesian Air Force has been actively taking action against and dealing with the issue of airspace violations, meaning that in the case of prosecution of these violations, the Indonesian Air Force has a better understanding of how to act and resolve them, due to the large area of Indonesia's territory, especially its airspace and limited defense equipment and radar devices that detect violations. Thus, it is very vulnerable to violations of airspace by foreign aircraft.<sup>30</sup>

In the law enforcement process, it is hoped that no one will be treated arbitrarily. Article 9 of the UDHR states, "No one shall be subjected to arbitrary arrest, detention or exile." Ideally, the law enforcement process should also not involve acts of torture and inhumane acts against suspected violators or violators of the Indonesian state's airspace.

As an example of the Forcedown case of a foreign aircraft that violated Indonesian airspace, which occurred on Tuesday, 28 October 2014, the National Defense Operations Command (Koopsupnas), which was formerly known as Popunas (National Defense Operations Center), received information from Halim Sector I operations regarding the presence of an aircraft controlled by ATC Singapore, an aircraft it flew over the territory of Indonesia without having a Security Clearance. After learning of the violation, the commander of Koopsudnas I at that time immediately ordered two Sukhoi aircraft to intercept the foreign aircraft, which was known to be a target report (Lasa X) because the aircraft did not have a permit, but up to a distance of 200 Nm from Batam the aircraft's position it had crossed Malaysian airspace, in the end, the interception

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<sup>28</sup> Ridha Aditya Nugraha, Konrardus Elias Liat Tedemaking, and Vicia Sacharissa, "Penguatan Kedaulatan Negara Di Udara Dan Urgensi Sinkronisasi Hukum," *Kertha Patrika* 43, no. 1 (2021): 65–81.

<sup>29</sup> the Indonesian Air Force's national air operations command, "Interviews with the Law Enforcement Section of the Indonesian Air Force's National Air Operations Command."

<sup>30</sup> the Indonesian Air Force's national air operations command.

order was canceled at 11.28 WIB. However, the Koopsupnas radar monitored the same plane and looked again at the plane being detected in a position north of Pontianak on a return route south of Singapore. At 11.45 WIB, the commander of Koopsudnas I again ordered the Sukhoi aircraft to conduct interception operations, and at 12.23 WIB, the foreign aircraft was found and visually detected at position 213 Nm and radial 091 from Batam. The aircraft was registered VH-PFK in the Republic of Indonesia south of Notuna in the Riau region. According to an Air Force flight service source, the plane's response when it was about to be forced down was at Supadio Pontianak. The pilots who were flying the plane insisted on not accepting the interception by the Air Force because the plane was on Singapore radio control frequency, and they still thought that the plane they were flying was not violate Indonesia's national territory because they considered the plane to be crossing an international flight path under the control of Singapore ATC. With the flight emergency frequency, Sukhoi was ordered to conduct interception operations, explaining that even though he was in the Singapore Flight Information Area (Singapore FIR) and had filled out the flight planning,

After receiving an explanation, the Singaporean plane finally agreed to land in Supadio Pontianak, escorted by two interception operation aircraft (Sukhoi) from the Indonesian Air Force's National Air Force Command. On board the plane, there were three crew who were conducting training, and they were named Captain Tan Chin (instructor, Singapore), Xiang (Trainee, China), and Zheng Chen (Trainee, China). In the end, they arranged for a permit and were fined Rp. 60,000,000 (sixty million rupiah), after paying a fine and obtaining a permit, the plane was released.

The second case example is a British jet aircraft that crossed the territory of the Indonesian state without permission on May 14, 2022; according to the Hangnadim Air Force base commander, he received a report from Asops Koopsud I and Asops Kosek IKN. The base defense forces were ordered to conduct a force-down operation on this information and succeeded in forcing the DA62-type aircraft with the registration number G-DVOR to land at Hangnadim airport. Through radar communication, the plane's pilot was ordered to return to the cat, but this did not happen due to insufficient fuel, and the distance was more than 200 Nm. In the end, the pilot landed in Batam. The flight crew responded that they felt they had not violated the law because they flew from Malaysia to Malaysia and had received permission from the Singapore FIR. However, the plane could not show flight clearance and needed these documents. From the results of the immigration inspection, no illegal items were found on the plane.

Furthermore, according to Danlanud's direction, the ongoing legal process requires the plane to take care of flight clearance because it has violated Article 10 of the Sovereignty Territory Law concerning violations of Indonesian sovereignty. It reflects on the administration of administrative sanctions previously delegating law and sanctions from the investigators who were given authority to the PPNS of the Airport Authority Region II office in Medan. Furthermore, according to Danlanud's direction, the ongoing legal process requires the plane to take care of flight clearance because it has violated Article 10 of the Sovereignty Territory Law concerning violations of Indonesian sovereignty. It reflects on the administration of administrative sanctions previously delegating law and sanctions from the investigators who were given authority to the PPNS of the Airport Authority Region II office in Medan. Furthermore, according to Danlanud's direction, the ongoing legal process requires the plane to take care of flight clearance because it has violated Article 10 of the Sovereignty Territory Law concerning violations of Indonesian sovereignty. It reflects on the administration of administrative sanctions previously delegating law and sanctions from the investigators who were given authority to the PPNS of the Airport Authority Region II office in Medan.<sup>31</sup>

The imposition of administrative sanctions is an administrative sanction that exceeds the amount of fine sanction in the existing regulations in PP Pamwilud, which in the regulation provides for a maximum sanction of Rp. 5 billion, based on confirmation from the Koopsudnas law enforcement party explaining that there is no administrative sanction above the maximum limit of the existing provisions.<sup>32</sup> This means that the sanctions given are expected to deter these violators and minimize subsequent violations even though they are only administrative. However, this is also considered disproportionate to the losses and threats to Indonesia's national security and sovereignty.

In this case example, the administration or imposition of administrative fines is considered light enough to affect violators of Indonesian territory. The value of these fines is not comparable to the value issued at the time of operation; apart from that, it is also not comparable to the losses and threats to Indonesia's national security and sovereignty.<sup>33</sup> Therefore, the government is expected to immediately evaluate and make new airspace management regulations or laws

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<sup>31</sup> Edhie Prayitno Ige, "Melanggar Teritori Udara, Pesawat Asing Dipaksa Turun Oleh TNI AU," *Liputan6*, 2022.

<sup>32</sup> the Indonesian Air Force's national air operations command, "Interviews with the Law Enforcement Section of the Indonesian Air Force's National Air Operations Command."

<sup>33</sup> M. Shamsul Haque, "Reinvention in Public Governance in Southeast Asia: Its Impacts on Economic Sovereignty and Self-Reliance," *International Journal of Organization Theory & Behavior* 9, no. 2 (2006): 254–80, <https://doi.org/10.1108/ijotb-09-02-2006-b006>.

because aviation law still needs to be solid and effective as a legal basis in matters of prosecution and law enforcement for aircraft violations in Indonesia.<sup>34</sup>

The background factors for the immediate drafting of rules or norms for the management of the airspace include historical, political, and economic factors, and the most important is the sovereignty and security of the state. Drafting the new airspace management regulations is expected to strengthen and make the previous law effective because it will discuss 4 points: 1) Regarding the investigative authority given to the Indonesian Air Force; 2) Regarding criminal sanctions planned to have a criminal effect and fines heavier than the previous law; 3) Regarding other air vehicles; 4) Regarding zoning.<sup>35</sup> Synchronization of interests is essential to realize good airspace management to maintain the sovereignty, security and welfare of the Indonesian nation and state.<sup>36</sup>

**Table 1.**  
**List of Violations of Indonesian Airspace**

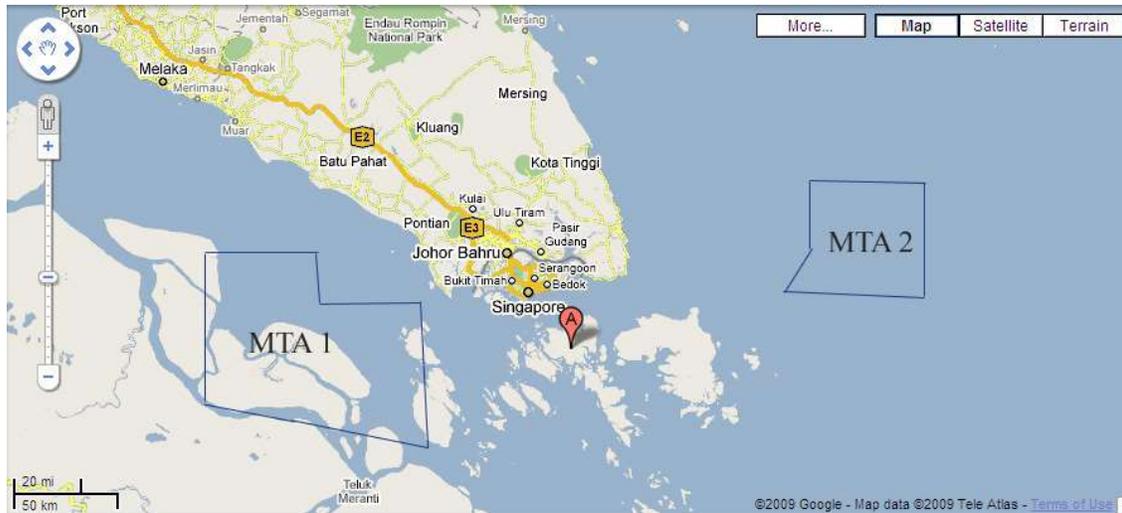
Country	Singapore	USA	Australia	Qatar	Philippine	Malta	Guernsey	New Zealand	France	UK	Ukraina	PNG	Malaysia
<b>Year</b>	2020	1555	19	1	1	1	1	1	1				
	2021	1042	2							2	2	1	1
<b>Amount</b>	Military	2597	7		1					1			
	Civil		14	1	1	1	1	1	1	1	2	1	1
	Total	2597	21	1	1	1	1	1	1	2	2	1	1

Source: Data Source Intelligence staff of the National Air Defense Command

<sup>34</sup> Risdiarto, "Penyidik TNI Angkatan Udara Dalam Kasus Pelanggaran Wilayah Udara Yurisdiksi Indonesia Oleh Pesawat Terbang Asing Tidak Terjadwal."

<sup>35</sup> the Indonesian Air Force's national air operations command, "Interviews with the Law Enforcement Section of the Indonesian Air Force's National Air Operations Command."

<sup>36</sup> the Legal Bureau of the Subdistricts of Kumdirga Diskumau, "Interviews with the Legal Bureau of the Subdistricts of Kumdirga Diskumau," (n.d.).



**Figure 1. Ex MTA 2/RSAF Area**

Source: The Legal Section of the National Air Operational Command (Koopsudnas)

#### **4. Conclusion**

From the results of the discussion above, it can be concluded that laws and regulations regarding aviation are considered not yet vital in carrying out law enforcement for violations of foreign aircraft in Indonesian territory because there are several things and obstacles, namely constraints in regulations in the form of not maximal law enforcement with rules for imposing sanctions or fines which are considered light and do not have an effect deterrent as well as the second obstacle regarding investigative authority which is currently being handled by the PPNS of the Ministry of Transportation while granting investigative authority to the Indonesian Air Force is considered more appropriate because the Indonesian Air Force is considered to have more understanding of the process starting from ambushes, prosecution and investigation so that in investigations this authority is more precise given to the Air Force.

As for the law enforcement efforts conducted by law enforcement officials against cases of foreign aircraft violations in Indonesian territory, this still needs to be improved, as evidenced by the rampant number of such cases that occur every year. This requires evaluations, which are pretty important because to maintain the sovereignty and security of the state, it is necessary to act decisively in imposing sanctions and acting against these violations. Until now, it is known that many cases of similar violations have not reached the court stage, so there has been no imposition of criminal sanctions on violators to create a deterrent effect.

From the conclusions above, there are suggestions regarding the effectiveness of regulations in law enforcement for violations of airspace in Indonesian territory; the current regulations regarding aviation time are to be improved and evaluated by adopting, viewing, and reviewing elements of security and safety interests in the implementation of flights.

Improvement and evaluation of currently ineffective regulations are essential in law enforcement efforts and maintaining national security and air defense in airspace. The role of related agencies and the government is needed in making and creating effective laws and regulations to guarantee legal certainty in terms of bureaucratic reform and consistent law enforcement in aviation and management of Indonesian airspace.

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