



The Form of Responsibility of Airlines as Business Entities For Unilateral Flight Cancellations Is Viewed From The Minister of Transportation Regulation Number 89 of 2015 Concerning Handling of Flight Delays In Scheduled Commercial Air Transport Business Entities In Indonesia

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Abstract An airline is a company that provides services to goods and passengers traveling by air. The definition of aviation based on Law of the Republic of Indonesia Number 1 of 2009 concerning Aviation is a unified system consisting of the use of airspace, aircraft, airports, air transportation, flight navigation, safety and security, environment, supporting facilities and other public facilities. . Every flight activity is the responsibility of the airline company. specifically responsible for errors in unilateral cancellation of passenger departures made by the airline. As a corporation or legal entity, airlines are obliged to provide compensation to passengers in accordance with the policies contained in aviation law and consumer protection law (UUPK). The research method used in this research is normative research which examines library materials sourced from secondary data, namely primary legal materials, secondary legal materials and tertiary legal materials. This legal material was obtained by taking a statutory approach and a conceptual approach. Then it is analyzed using qualitative methods to obtain a conclusion from the problem formulations that have been discussed. The purpose of this research is to find out the factors that cause departure cancellations by airlines and to find out how airlines are responsible for unilateral flight cancellations in terms of Regulation of the Minister of Transportation of the Republic of Indonesia Number 89 of 2015 concerning Handling Flight Delays in Scheduled Commercial Air Transport Business Entities in Indonesia.

Keywords: Corporate Responsibility, Unilateral Cancellation, Flights

1. BACKGROUND

Air transportation is a more practical and instant means of transportation compared to land and sea transportation. Air transportation itself is specifically regulated in Law of the Republic of Indonesia Number 1 of 2009 concerning Aviation. Where this law discusses national and international provisions. The aim of holding flights is to create comfortable and fast air transportation. However, it is also possible that at certain times this flight activity will experience problems. One of them is delayed departures or flight cancellations which give the impression that there is no discipline due to mistakes made by the airline.

Air transportation is growing and developing rapidly because it serves various domestic and foreign travel routes. The increasing growth of the aviation industry provides benefits for users of air transportation services. Because basically every business entity or corporation always adheres to the principle of economic profit, namely starting or initiating a business activity using as little capital as possible and conversely must be able to generate maximum profits. The many companies that offer bonuses and cheaper fares make potential passengers interested and more enthusiastic about traveling by plane. This is the best solution for those who have a very busy schedule but want to save time.

According to HMN Purwosutjipto, what is meant by transportation is a reciprocal agreement between the carrier and the sender. Where the carrier commits himself to carrying out the transportation of goods or people from one place to a certain destination safely. Air transportation is a person or legal entity that enters into a transportation agreement to transport passengers using an airplane by receiving a reward through payment for tickets or baggage which is charged to the passengers.

Air transportation as a means of transport is obliged to transport passengers safely, quickly and securely to their destination on time in accordance with the fare or fare paid by the passenger. However, practice in the field shows that air transportation activities often do not fulfill their obligations properly and correctly, especially unilaterally canceling passenger flights. The provision of information on cancellations, objection services and responsibilities by airlines seems complicated and not transparent. This reflects the low quality of airline service so that passengers feel unfair because they do not consider the interests and rights of passengers. If seen from the theory of justice, there are 2 (two) principles that reflect the principle of justice, namely those included in two principles, namely that everyone has the same rights to the greatest possible basic freedoms which are equal to the freedoms for other people (*the equal principle*) and socio-economic inequality must be arranged in such a way that these differences do not harm other people (*the different principle*).

The occurrence of ticket cancellation is a violation that causes passengers to give negative marks and has a negative impact on the image of the air transportation company. Because it is considered to violate the agreement or breach of contract between the air transportation company and the passenger. Where the agreement arises from the moment the air transportation ticket is purchased by the passenger. Based on Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection (UUPK), it is explained that the factor causing exploitation of consumers is due to the low level of consumer awareness of their rights as consumers. On the other hand, the carrier also has the obligation to compensate for losses experienced by consumers as stated in Law of the Republic of Indonesia Number 1 of 2009 concerning Aviation (Aviation Law).

The widespread violations of unilateral cancellation of passenger flights which are often carried out by corporations and the injustice towards the victims made the author feel interested in discussing this in more depth and put it into a scientific work entitled "**The Form of Airline Responsibility for Unilateral Flight Cancellations in View of Minister of Transportation Regulation Number 89 of 2015 concerning Handling Flight Delays in Scheduled Commercial Air Transport Business Entities in Indonesia.**"

1.1 Formulation of the problem

Based on the background description above, the problem formulation that will be discussed in this research is as follows:

1. What are the factors causing departure cancellations by airlines?
2. What is the form of airline responsibility for unilateral flight cancellations in terms of Minister of Transportation Regulation Number 89 of 2015 concerning Handling Flight Delays in Scheduled Commercial Air Transport Business Entities in Indonesia ?

2. RESEARCH METHODS

This research uses normative legal research methods sourced from secondary data. Secondary data consists of primary legal materials, secondary legal materials and tertiary legal materials which are studied by conducting literature studies. Primary legal material is obtained from legal norms and laws relating to the problem to be studied. Secondary legal materials themselves come from books, scientific journals, the internet, legal documents and writings related to the object of the problem. Meanwhile, tertiary legal materials come from dictionaries and encyclopedias. After the secondary data has been collected, descriptive analysis is then carried out in order to draw conclusions from the problem formulations that have been discussed.

3. DISCUSSION

3.1 Factors Causing the Cancellation of Passenger Departures by Airlines

Unilateral cancellation is the cancellation of an agreement unilaterally. An agreement is one party to fulfill the performance that has been agreed upon by both parties in the agreement or by not fulfilling the performance or obligations that have been determined towards certain parties in an agreement, whether an agreement that arises from an agreement or an agreement that arises due to law. -invite.

Based on Article 2 of the Regulation of the Minister of Transportation of the Republic of Indonesia Number 89 of 2015 concerning Handling of Flight Delays (*Delay Management*) in Scheduled Commercial Air Transport Business Entities in Indonesia, there are 3 (three) things that fall into the category of flight delays, including:

- a) Flight delays (*flight delayed*);
- b) Not carrying passengers due to aircraft capacity (*denied boarding passenger*); And

c) Flight cancellation (*cancellation of flight*).

Society's dependence on aviation is currently very high. This trend really allows each airline to think of various ideas to attract the attention of passengers. One of them starts from carrying out promotional prices on ticket prices to providing the best service from each airline. However, in general, in providing air transportation services to passengers, the world of aviation often faces various kinds of obstacles, namely flight delays and cancellations. Flight cancellation can be defined as a delay or change to a flight for some reason. Delays and cancellations of passenger departures are regulated in the Regulation of the Minister of Transportation of the Republic of Indonesia Number 89 of 2015 concerning Handling of Flight Delays in Scheduled Commercial Air Transport Business Entities in Indonesia.

The factors that cause an airline to cancel a flight departure include:

1. bait that is deemed unable to cover flying operational costs;
2. Non-Operational Factors. This occurs due to delays in pilots, co-pilots and cabin crew, aircraft repairs or maintenance, waiting for catering parties and passengers who are late to check-in;
3. Weather Factors. Bad weather conditions such as heavy rain, wind speeds that exceed maximum standards and thick fog can pose a risk because conditions like these greatly affect visibility ;
4. Operational Factors. The destination airport cannot be used, there are queues of aircraft landing and taking off and delays in refueling; And
5. There are government regulations that limit or prohibit travel. Business factors that usually occur are passenger overload or lack of pens
6. due to political conflicts or public health conditions that are in a state of emergency;

What you need to know is that if the airline cancels a flight unilaterally, then each passenger has several rights regarding the cancellation, including:

1. The right to receive reimbursement for ticket costs or rebooking of travel to the original destination;
2. The right to receive compensation or compensation in accordance with the rules stated in the relevant law;
3. The right to food, drink and accommodation;
4. The right to information and communication. In this case, the airline is obliged to notify the cause of the flight being cancelled, the airline is obliged to convey the available options, the steps for rebooking tickets, inform the amount or amount of compensation that each victim will receive and what the refund or *refund procedure* is .

3.2 Airline Responsibility for Unilateral Flight Cancellations Judging from the Regulation of the Minister of Transportation of the Republic of Indonesia Number 89 of 2015 concerning Handling of Flight Delays in Scheduled Commercial Air Transport Business Entities in Indonesia

Based on the 1982 United Nations Convention Concerning the Law of the Sea, it states that Indonesia's territory is an area rich in strategic islands. The territory consists of land, water and air into one unit that is integrated with the Indonesian nation. With the cluster of islands stretching from Sabang to Merauke, the use of air transportation is increasing because it is one of the needs that is considered the most logical and efficient in supporting economic activities. The number of passengers interested in using air transportation is influenced by several factors. One of them is the speed factor in covering the distance from one route to another.

With the geographical conditions of Indonesia's territory consisting of islands, airline founders took the initiative to serve passengers well. One of them is providing good flight services to various routes in Indonesia. Services that start from the place of origin to the destination. However, in its implementation, it is not uncommon for airlines to commit many violations which result in losses for passengers or consumers.

In fact, what often happens in everyday life is passengers' ignorance regarding civil relations that exist between business actors and consumers since the transaction is carried out. The civil engagement in question is Article 1320 of the Civil Code which explains the conditions for the validity of an engagement, namely:

1. There is an agreement between the air transportation service provider and the consumer or passenger;
2. Having the skills to be able to carry out an engagement;
3. A certain thing; And
4. The agreement is made for halal purposes.

According to one of the Subekti scholars, "an agreement becomes invalid if it is given due to mistake, coercion or fraud. Furthermore, to bind oneself legally according to the law, one must be competent according to the law so that one can be held accountable for what one does. Positive law in Indonesia states that when a consumer or passenger uses air transportation services and they feel they have been disadvantaged, the consumer can sue the business actor or airline. Because the service system they carry out or implement is not in accordance with the principles or principles contained in Article 2 of the Consumer Protection Law which is based on benefits, justice, balance, security, safety and legal certainty.

Article 1 paragraph (1) of the Consumer Protection Law defines consumer protection as all efforts to ensure legal certainty to provide protection to consumers. The sentence which states "all efforts to ensure legal certainty" is expected to act as a bulwark to eliminate arbitrary actions that are detrimental to business actors only for the sake of consumer protection.

Legally, when a prospective passenger as a consumer buys an airplane ticket where the departure schedule provisions are included in the airplane ticket, then at that time a legal relationship has occurred between the two parties. There is an agreement or commitment that must be fulfilled between the consumer and the business actor. With the existence of Law of the Republic of Indonesia Number 1 of 2009 concerning Aviation, it increasingly emphasizes all matters relating to aviation. Because in this law there are articles that regulate the rights and obligations of passengers as airline consumers.

What we need to know is that if the rights and obligations of passengers are not balanced it will result in problems. Passengers who experience a flight cancellation are obliged to receive responsibility, namely liability in the form of compensation from the airline in accordance with the principles contained in the theory of absolute responsibility (*strict liability*). Specifically, this has been regulated in the Regulation of the Minister of Transportation of the Republic of Indonesia Number 89 of 2015 concerning Handling Flight Delays in Scheduled Commercial Air Transport Business Entities in Indonesia.

According to Article 3 of the Regulation of the Minister of Transportation of the Republic of Indonesia Number 89 of 2015 concerning Handling of Flight Delays in Scheduled Commercial Air Transport Business Entities in Indonesia, there are 6 (six) categories of delays in the world of aviation, including:

- a. Category 1, delay 30 minutes to 60 minutes;
- b. Category 2, delay 61 minutes to 120 minutes;
- c. Category 3, delay 121 minutes to 180 minutes;
- d. Category 4, delay 181 minutes to 240 minutes;
- e. Category 5, delay of more than 240 minutes; And
- f. category 6, flight cancellation.

In the event of flight cancellation, the airline as a corporation is responsible for the losses suffered by passengers. The responsibility is contained in Article 9 letter f which states that for category 6 delays, the air transport business entity is obliged to divert to the next flight or return the entire ticket cost (*refund ticket*).

Meanwhile, sanctions that can be imposed on airlines as business entities are regulated in Article 16 of the Regulation of the Minister of Transportation of the Republic of Indonesia

Number 89 of 2015 concerning Handling of Flight Delays in Scheduled Commercial Air Transport Business Entities in Indonesia. This article provides sanctions based on an assessment carried out by the Director General with the following provisions:

- a. Sanctions in the form of a written warning if a Domestic Air Transport Business Entity has an assessment weight below 60% (Not Good) consecutively for 3 (three) months;
- b. Sanctions in the form of freezing new routes if the Domestic Air Transport Business Entity has an assessment weight below 60% (Not Good) consecutively for 3 (three) months after being given the warning letter as intended in point a;
- c. Sanctions in the form of reducing routes if the Domestic Air Transport Business Entity has an assessment weight below 60% (Not Good) consecutively for 3 (three) months after being given the route freezing sanction as referred to in point; And
- d. Sanctions in the form of revocation of business permits if the Domestic Air Transport Business Entity has an assessment weight below 60% (Not Good) consecutively for 3 (three) months after being given the route reduction sanction as referred to in point c.

4. CONCLUSION

From the descriptions of the discussion of the problem formulation above, the author can draw conclusions, including:

1. The factors causing the cancellation of passenger departures by airlines are business factors, non-operational factors, weather factors, operational factors and the existence of government regulations that limit or prohibit travel due to political conflicts or public health conditions in emergencies.
 2. The form of airline responsibility for unilateral flight cancellations is reviewed from the Regulation of the Minister of Transportation of the Republic of Indonesia Number 89 of 2015 concerning Handling Flight Delays in Scheduled Commercial Air Transport Business Entities in Indonesia referring to Article 9 letter f which states that for category 6 delays, air transport business entities are obliged to divert to the next flight or refund the entire ticket cost (*refund ticket*).
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