



## **CONSUMER PROTECTION FOR FLIGHT DELAYS (FLIGHT DELAY) ON AIRLINES**

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### **Abstract**

The development of the times has changed the pattern of people's mobility, and aviation has become one of the popular modes of air transportation. However, flight delays that are sometimes experienced by passengers can cause both material and immaterial losses. Therefore, consumer protection is important to be guaranteed by the airline. The research method used is quantitative with a normative-empirical legal approach. Empirical research was conducted through interviews with the Directorate General of Civil Aviation to obtain primary data, while normative research was carried out by reviewing laws and regulations and related legal materials. The results of the study show that flight delays are a problem that is often experienced by passengers at SIM Aceh Besar Airport. From the results of the interviews and data collected, it was found that airlines do not always treat passengers well in dealing with delay situations, which should be in



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accordance with applicable regulations. Law Number 1 of 2009 concerning Aviation emphasizes the obligation of airlines to provide proper service to passengers, including in overcoming flight delays, and providing appropriate compensation if the delay is caused by the airline. In addition, the results of the study also revealed that Article 146 of the Law states that airlines are liable for losses suffered due to delays, unless caused by weather and operational technical factors. However, from interviews with passengers who experienced delays at SIM Aceh Besar Airport, it can be seen that they do not always provide compensation in accordance with the provisions, so they do not fulfill their obligations in providing consumer protection.

**Keywords:** Consumer Protection, Delay, Airline.

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## 1. INTRODUCTION

The development of the times has occurred very rapidly. Nowadays, aviation is an air transportation service that has been widely used by the public. When air transportation was not as developed as it is now, long-distance travel between provinces had to be taken for days, now it can be reached in just a matter of hours. The need for transportation facilities has also changed to the main point. In the midst of globalization and modernization that requires high, fast, and efficient mobility, of course, air transportation will become something that is needed by humans.

An event that sometimes happens to passengers is when the departure time is postponed. Sometimes the airline when postponing flight hours does not provide certainty of flight hours even though passengers will experience material or immaterial losses and it cannot be underestimated, the losses experienced by passengers will be the responsibility of the airline.

Transportation as an agreement, on average, is an unwritten agreement or can be said orally but is certainly supported by transportation documents. The main point of agreement between the airline as a carrier and passenger is about the departure time that has been agreed between the first and second parties. Air transportation as one of the means of public transportation has the advantage of time efficiency, quite affordable rates, the comfort of facilities provided to consumers who use air transportation or aircraft services, a wide range of destinations is almost unlimited and so on. So with these various advantages, air transportation or airplanes have been widely used by the public as a means of air transportation, especially for people who want to travel long distances. In transportation activities, the risk of unwanted things happening is something that cannot be avoided so that the unification of regulations regarding this is an absolute thing to do.

To be able to maintain the sovereignty of the airspace of the Unitary State of the Republic of Indonesia, it is necessary to master and develop technology so that the

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Unitary State of the Republic of Indonesia can control its airspace as high as possible for the widest possible benefit for the community, especially for the interests of aviation. Based on Article 1 number 1 of Law Number 1 of 2009 concerning Aviation, it is explained that Aviation is a unified system consisting of the use of airspace, aircraft, airports, air transportation, flight navigation, safety and security, the environment, as well as supporting facilities and other public facilities.

Based on Article 3 of Law Number 1 of 2009 concerning Aviation, it is explained that the purpose of organizing flights is:

- 1) Realizing the implementation of orderly, orderly, safe, safe, comfortable, at reasonable prices, and avoiding unfair business competition practices;
- 2) Facilitating the flow of movement of people and/or goods by air by prioritizing and protecting air transportation in order to facilitate national economic activities;
- 3) Fostering the spirit of aerospace;
- 4) Upholding the country's sovereignty;
- 5) Creating competitiveness by developing national air transport technology and industry;
- 6) Supporting, mobilizing, and encouraging the achievement of national development goals;
- 7) Strengthening the unity and unity of the nation in the context of realizing the Nusantara Vision;
- 8) Increasing national resilience; and
- 9) Strengthening relations between nations.

In carrying out this development, everything requires a steady arrangement, both juridical and technical aspects, which need to be developed and improved, its implementation which requires cooperation between the party carrying out the work and the party providing the work. Thus the parties can determine the form and content of the agreement themselves

The relationship between service providers and service users is an interaction that has a dependency nature. The rights and obligations of passengers in air transportation are often not balanced. Sometimes the losses experienced by passengers are considered not to be a serious problem based on laws and regulations will realize justice.

Flight delays are a serious problem that is often faced by passengers, even though there are norms that have regulated it, but the problem still continues to recur. Proper handling and strict regulation are needed. Small problems if they continue to recur for a long time will become big problems if they are not handled properly.

## **2. RESEARCH METHODS**

This study aims to investigate consumer protection for flight delays on airlines. The research method used is quantitative with a legal approach *normative-empirical*.



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Research *Empirical* conducted through interviews with the Directorate General of Civil Aviation to obtain primary data, while normative research was carried out by reviewing laws and regulations and related legal materials.

### **3. RESEARCH RESULTS AND DISCUSSION**

#### **3.1 Causes of Flight Delays in Airlines**

Regarding the condition that an event in a flight is said to experience a delay, it can be found in the provisions of Article 1 of Law No. 1 of 2009 concerning Aviation which provides a definition of delay, namely the occurrence of a time difference between the scheduled departure or arrival time and the realization of the departure or arrival time of an aircraft."

In flights, air transportation delays are one of the losses suffered by passengers that must be held responsible by the carrier (business owners who carry out air transportation activities) who operate the aircraft.

The carrier's liability for losses due to delay is also mentioned in Article 146 of the Aviation Act which reads "the carrier is liable for losses suffered due to delays in the carriage of passengers, bags, or cargo, unless the carrier can prove that the delay was caused by weather and operational technical factors."

In aviation regulations, it has been regulated about take-off and delay which must be done on time so as not to interfere with flight traffic, while delays on flights are conceptually in the aviation jurisdiction system if an aircraft does not take off beyond its standard departure time, and vice versa a flight is said to be on time if its departure is in accordance with the predetermined time. For example, the departure time listed on the peswat ticket shows 08:09 WIB but the passenger at that time is still waiting in the boarding room or is already on the plane but has not taken off, then it can be said to be delayed.

The delay action carried out by a flight has fundamentally violated four basic rights of consumers, including the right to safety, the right to be informed, the right to choose, and the right to be heard. Consumer rights are more specifically regulated in Article 4 Chapter III regarding rights and obligations in Law Number 8 of 1999 concerning consumer protection, as in Article 4 letter h it is stated that: "the right to receive compensation, compensation and/or reimbursement if the goods and/or services received are not in accordance with the agreement or are not as they should be."

The problem of flight delay is a common problem in the aviation industry in Indonesia. Some of the factors that cause flight delays include:

- 1) Weather Factors: Bad weather such as heavy rain, heavy fog, or storms can cause flight delays. This is especially true for flights involving airports that are vulnerable to extreme weather conditions.
- 2) Technical Issues: Aircraft breakdowns or other technical issues can affect flight schedules. Every aircraft must undergo regular maintenance and inspection before flying to ensure flight safety. If any problems are found during the inspection, repairs are required before the aircraft can depart.
- 3) Air Traffic Density: Several airports in Indonesia experience high air traffic density, especially in major cities such as Jakarta, Surabaya, or Denpasar. This can lead to aircraft buildup on the runway and result in flight delays.
- 4) Security and Immigration Procedures: Strict security procedures and slow immigration processes can also lead to flight delays. Intensive security checks or long queues at immigration gates can take longer than expected.
- 5) Airline Delays and Operational Uncertainty: Some airlines often face operational issues that cause flight delays. This could be related to aircraft shortages, personnel issues, or internal management issues. This operational uncertainty can result in unexpected schedule changes.

According to Article 146 of the Aviation Law, the factors that justify airlines to delay flight schedules are weather factors and operational technical factors. Included in the weather factors are:

- 1) Cloudburst;
- 2) Lightning;
- 3) Storm;
- 4) Fog;
- 5) Smoke;
- 6) Visibility below the minimum standard;
- 7) Wind speeds that exceed the maximum standards that interfere with flight safety.

Meanwhile, those included in the operational technical factors are:

- 1) Airports for departures and destinations cannot be used for aircraft operations;
- 2) The environment leading to the airport or runway is disrupted, for example due to cracks, floods, or fires;
- 3) There is a queue for aircraft to take *off*, land, or allocate departure time (*departure slot time*) at the airport, and
- 4) Delay in *refueling*.

Meanwhile, those that are not included in operational technicalities include:

- 1) Delay of the pilot, co-pilot, and cabin crew.
- 2) Delays in catering services.
- 3) Delays in handling on the ground.
- 4) Waiting for passengers, whether they have just checked in, changed planes (transfer) or connecting flights.
- 5) Aircraft unpreparedness.

Outside of these provisions, the carrier is not allowed to delay the flight schedule, because it is dominoes, so it can result in chaos in the next flight schedule to another place. If factors other than the factors that have been regulated by the Law are used as the reason for the delay, then the passenger is entitled to take the legal route to get compensation.

The impact of *flight delays* can be varied, including inconvenience to passengers, loss of time, inconvenience in planning trips, and the possibility of loss of flight connections or other scheduled opportunities. Therefore, it is important for airlines and aviation authorities to work together in addressing these issues by improving operational efficiency, better communication to passengers, and proper handling in flight delay situations.

*Flight delay* is a problem that is often experienced by airline passengers at Sultan Iskandar Muda Airport, Aceh Besar. Based on the results of research and interviews over the course of one week, there were complaints from various sources, including passengers experiencing delays and data collected, which showed that airlines did not treat passengers well when facing delay situations, in accordance with the regulations that had been set.

Some passengers, such as Saifuddin and Faisal, shared their experiences using air transportation services from where the departure schedule did not match what was stated on the plane ticket. They are forced to wait for more than an hour without receiving adequate compensation or service from the airline.

This shows that there is a discrepancy between the practices carried out by airlines and existing regulations. Law Number 1 of 2009 concerning Aviation explains that airlines have an obligation to provide decent service to passengers, including in the case of flight delays. If the delay is caused by the airline, they are required to provide compensation in accordance with the applicable regulations.

### **3.2 Form of Airline Responsibility in the Event of Flight Schedule Delay**

PT. Lion Mentari Airlines is one of the airlines operating as an airline based in Jakarta, Indonesia. itself is the largest private airline in Indonesia. With a network of routes in Indonesia, the Philippines, Malaysia, Thailand, Australia, India, Saudi Arabia, and Japan, as well as charter routes to China, Hong Kong, South Korea, and Maluku.

Flight schedule delays are a frequent problem for airlines and are a common complaint from passengers. In this case, there are several forms of responsibility that must be borne by the airline when the delay occurs. Although airlines often consider delays to be commonplace, passengers who experience delays can suffer losses both materially and physically.

First, airlines have an obligation to provide true, clear, and honest information to passengers regarding the condition of their flights. This is in accordance with Article 4 letter (c) of the Aviation and Aviation Safety Act which regulates passengers' right to accurate information. However, in some cases, at Aceh Besar SIM Airport, it seems that it is not transparent and covers up the reason for the delay.

Second, airlines must compensate passengers who experience delays, especially if the delay is caused by internal factors such as technical problems with the aircraft. However, if the delay is caused by external factors such as weather or operational issues at the airport, the airline does not adequately compensate the passengers. Currently, the government is regulating regulations that provide sanctions in the form of compensation according to the time of delay experienced by passengers.

In addition, airlines are also responsible for losses suffered by passengers both materially and physically. Material losses can include additional costs incurred by passengers due to delays, such as lodging or other transportation costs. Meanwhile, physical losses can be in the form of fatigue or discomfort due to waiting too long.

In international air law, there are conventions such as the 1929 Warsaw Convention and the 1933 Rome Convention that regulate the carrier's liability in the event of loss of passengers. The Warsaw Convention itself is a multilateral agreement that is widely followed by countries, including Indonesia. The airline as the carrier is required to comply with the provisions of the convention in dealing with liability issues related to flight schedule delays.

Overall, in the context of flight schedule delays, airlines have a responsibility to provide accurate information to passengers, provide adequate compensation if



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delays are caused by internal factors, and bear material and physical losses suffered by passengers. It is important for airlines to treat this problem of delays seriously and transparently in order to maintain passenger trust and satisfaction.

### 3.3 The analysis of the form of compensation provided by the airline is reviewed from Law number 1 of 2009 concerning aviation

The *lex specialis* for flight delays is Law No. 1 of 2009 concerning Aviation. Thus, passengers and airlines can refer to this law as a basis for protection. PT. Obligated to carry passengers and/or cargo after the transportation agreement is agreed upon or after the passenger purchases an air ticket. Thus, it is the obligation of a Public Company (PT). to transport and provide excellent service to passengers in accordance with the transportation agreement.

Categories	Time Duration	Mandatory compensation for scheduled commercial air freight passengers	Alternatives to offer to passengers
1	30 minutes to 60 minutes delay	Refreshments	Passengers can be transferred to the next flight or can be refunded all tickets ( <i>refund tickets</i> ). In this case, the passenger must be exempted from the additional biava, including for the service class upgrade (up gradino classi, If the teriaditeriadi is downgraded to the service class ( <i>subclass</i> ), the
2	Delay 61 minutes to 120 minutes	Drinks and snacks	
3	Delay 121 minutes to 180 minutes	Heavy drinks and meals	
4	Delay 181 minutes to 240 minutes	Beverages, snacks, heavy meals	
5	Delay of more than 240 minutes	Monetary compensation of Rp. 300,000.00	





		Delays of more than 6 hours and passengers need accommodation, then passengers must be given accommodation (hotel).	passenger waib must be given the remaining excess money from the original ticket
6	Flight cancellation	Must be transferred to the next flight or refunded the full ticket fee ( <i>refund ticket</i> )	No other alternative offered

This is also explained in the provisions of Article 140 of the Republic of Indonesia Law No. 1 of 2009 concerning Aviation which reads:

- 1) Commercial air transport business entities are obliged to transport people and/or cargo, and postal after the agreement of carriage is agreed.
- 2) Commercial air transportation business entities are obliged to provide appropriate services to every air transportation service user in accordance with the agreed transportation agreement.
- 3) The contract of carriage as intended in paragraph (1) is evidenced by the passenger ticket and cargo documents.

In the context of flight delays, the regulation regarding compensation given by airlines to passengers can be found in Law Number 1 of 2009 concerning Aviation. Articles related to the airline's liability, including compensation, can be a reference in analyzing the form of compensation provided by PT. to passengers who experience flight delays.

Article 146 of the Act states that the carrier is liable for losses suffered due to delays in the carriage of passengers, baggage or cargo, unless the carrier can prove that the delay was caused by weather and operational technical factors. This shows that the airline is obligated to compensate passengers who suffer losses due to delay, unless the airline can prove that the delay was caused by factors beyond their control.

Based on the results of interviews with passengers who experienced flight delays or delays at SIM Aceh Besar Airport, there are testimonies that show that the airline does not treat passengers in a way that is in accordance with the regulations that have been regulated. Passengers such as Saifuddin and Faisal experienced a

discrepancy between the departure schedule listed on the plane ticket and the actual schedule, which resulted in them being forced to wait for up to an hour without adequate compensation or treatment from the airline

This reflects the inconsistency between the practices carried out by airlines and the provisions regulated in regulations, such as Law Number 1 of 2009 concerning Aviation. The regulation states that airlines have an obligation to provide proper service to passengers, including in the event of flight delays. If a passenger experiences a delay caused by the airline, the airline should provide compensation in accordance with applicable regulations, such as food, beverages, or reimbursement.

In the case submitted by the passenger, they stated that they did not receive any compensation from the airline even though they had waited for an hour or more. This shows that the airline is not fulfilling their obligations in compensating passengers who are late.

#### **4. CONCLUSION**

From the presentation in the previous chapter, the author draws the following conclusion:

1. **Factors Affecting Flight Delays:** As mentioned earlier, factors such as weather conditions, aircraft technical issues, and air traffic density can affect flight delays. The airline as one of the largest airlines in Indonesia also faces similar challenges. They need to address technical issues with their aircraft by performing routine maintenance and ensuring aircraft readiness before flight. In addition, they also need to anticipate air traffic congestion and optimize their operations to avoid unnecessary delays.
2. **Impact on Passengers and Travel:** Flight delays can have a negative impact on passengers, such as inconvenience and loss of time. Passengers may lose their next flight connection, experience changes to their travel plans, or even have to incur unexpected additional costs. Therefore, airlines need to understand and respond to the needs of affected passengers by providing clear information about delays, providing appropriate compensation, and providing adequate alternative solutions.
3. **In the context of flight delays,** the regulation regarding compensation given by airlines to passengers can be found in Law Number 1 of 2009 concerning Aviation. Articles related to airline liability, including compensation, can be used as a reference in analyzing the form of compensation provided by airlines to passengers who experience flight delays.

Thus, as a leading airline in Indonesia, it has a responsibility to overcome the problem of flight delays by improving operational efficiency and providing better service to its passengers.

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