

The Problems of Cancellation of Aircraft Tickets During the Covid-19 Pandemic from The Point of View of Consumer Protection in Indonesia and in the European Union

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Abstract : *The emergence of the Covid-19 pandemic had a wide impact on various economic sectors, one of the largest sectors being the aviation and tourism sectors. The government has taken a policy of limiting air transportation activities that have an impact on canceled flights. The case that arises is that the canceled tickets are replaced with vouchers, this raises the question of what form of consumer protection is for airline passengers whose tickets are canceled. The method of this research is normative using the approach of laws and regulations from the point of view of the rules in Indonesia and the European Union. From the research conducted by the author, it was found that the consumer protection of airplane passengers has been reduced due to the Covid-19 pandemic.*

Kata kunci : Pembatalan Tiket Pesawat, Hak-Hak Konsumen, Pandemi Covid-19

Abstrak : Munculnya Pandemi Covid-19 berdampak luas pada berbagai sektor ekonomi, salah satu sektor yang terdampak paling besar dari sektor penerbangan dan pariwisata. Pemerintah mengambil kebijakan pembatasan kegiatan transportasi udara yang berdampak pada banyaknya tiket penerbangan yang dibatalkan. Kasus yang muncul adalah tiket yang dibatalkan tersebut diganti dengan voucher, hal ini menimbulkan pertanyaan bagaimana bentuk perlindungan konsumen penumpang pesawat terbang yang tiketnya dibatalkan. Metode penelitian ini adalah normatif menggunakan pendekatan peraturan perundang-undangan dilihat dari sudut pandang antara aturan di Indonesia dan di Uni Eropa. Dari penelitian yang dilakukan penulis menemukan bahwa perlindungan konsumen penumpang pesawat terbang menjadi berkurang akibat adanya pandemi Covid-19.

I. INTRODUCTION

The emergence of the Covid-19 pandemic has caused problems in various aspects of life, especially in the world of aviation transportation. At the beginning of the pandemic, the government issued a large-scale social restriction policy that included restrictions on school, work, religious activities, and activities in public places¹(Peraturan Pemerintah Republik Indonesia Nomor 21 Tahun 2020, 2020). Furthermore, the government issued regulations, through the Ministry of Transportation, has issued regulations restricting community mobility by controlling land, sea, air and rail transportation. The government threatens to impose administrative sanctions for transportation operators who violate it. The impact on the air transportation sector is that many airline tickets belonging to passengers are cancelled. Previously in 2015 the Government had issued guidelines regarding service standards for economy class aircraft passengers and guidelines for handling flight delays and cancellations for air transportation business entities. The problem is that the cancellation of flight tickets is the impact of policies taken by the Government in order to contain the spread of the Covid-19 virus, on the other hand Passengers who have purchased tickets have the potential to experience losses due to ticket returns in the form of vouchers that not all consumers need. Therefore, the author wants to know how the consumer protection rules for airplane passengers whose tickets have been canceled due to the Covid-19 pandemic, and compare the ticket cancellation rules that apply in Europe. Therefore, in this article the author will analyze the problems of canceling airline tickets during the Covid-19 pandemic from the point of view of consumer protection in Indonesia and in the European Union.

II. METHODS

This research is normative legal research. Normative legal research has a tendency to image law as a prescriptive discipline which only looks at the law from the point of view of its norms, which of course are prescriptive. The research themes covered in normative legal research include research on legal principles, research on legal systematics, research on levels of vertical and horizontal synchronization, legal comparisons, and legal history, normative legal research in Indonesia is similar to legal research common law where legal research is more oriented to the practical aspect, which seeks answers to legal problems through researching legal facts, relevant legal regulations, and also looking at cases that are relevant to the questions to be solved.²

This study uses a case approach where researchers see many cases regarding cancellation of airline tickets due to the covid-19 pandemic, then the author uses a statutory approach where researchers examine regulations related to cancellation of airplane tickets, and also look at it from the point of view of the rules. existing regulations in Indonesia and the European Union regarding the cancellation of airline tickets during the COVID-19 pandemic.

¹ (Peraturan Pemerintah Republik Indonesia Nomor 21 Tahun 2020

² Sonata, D. L. (2014). Metode Penelitian Hukum Normatif Dan Empiris: Karakteristik Khas Dari Metode. *Fiat Justisia Jurnal Ilmu Hukum*, 8(1), 15–35.

The research data was obtained through primary sources, namely laws and regulations, legal cases related to cancellation of airplane tickets during the COVID-19 pandemic, and also secondary sources such as books and journals.

III. DISCUSSION

The Indonesian government made efforts to prevent the spread of the Covid-19 virus through a policy of limiting community activities, through Minister of Transportation PM 18 of 2020³(Peraturan Menteri Perhubungan Republik Indonesia Nomor PM 18 Tahun 2020, 2020) which was later amended by Minister of Transportation PM 41 of 2020⁴(Peraturan Menteri Perhubungan Republik Indonesia Nomor PM 41 Tahun 2020, 2020) concerning Transportation Control in Order to Prevent the Spread of Corona Virus Disease 2019 (Covid-19), which in Minister of Transportation Regulation 18 of 2020 article 14 it is regulated that there is a reduction in airport capacity (slot time) based on evaluation, and a limitation on the number of passengers at most 50% of the total seating capacity by implementing social distancing. Then the government also issued a policy of prohibiting going home from April 24, 2020 to May 31, 2020 through Minister of Transportation PM 25 of 2020⁵(Peraturan Menteri Perhubungan Republik Indonesia Nomor PM 25 Tahun 2020, 2020), all modes of transportation are prohibited from operating, including airplanes. With this provision, the number of passengers that can be transported by airplanes is only half the seating capacity and even before Eid al-Fitr, the Government prohibits flights so that there are parts of passengers who have bought tickets but did not leave whose tickets are cancelled.

Article 23 of Permenhub 25 of 2020 states that air transportation business entities are required to return ticket costs in full or 100% (one hundred percent) to prospective passengers who have purchased tickets. Furthermore, in Article 24 it is stated that the refund of air transportation tickets can be done by rescheduling (re-scheduling) without being charged, making a route change (re-route) without being charged a fee, compensating the value of the service fee to earn points in membership for purchase products offered by air transportation business entities, or provide ticket vouchers for the value of the purchased tickets which can be used to purchase tickets for other flights which are valid for a maximum of one year and can be extended once. These provisions are based on an agreement between the air transportation business entity and the prospective passenger, but from a number of ticket refund options, there is no form of refund of ticket fees in the form of cash. Based on the leniency rule, airline ticket replacements in the form of vouchers have started to bloom even without the approval of prospective passengers. Whereas in the old Regulation of the Minister of Transportation PM 89 of 2015⁶(Peraturan Menteri Perhubungan Republik Indonesia Nomor PM 89 Tahun 2015, 2015) concerning Handling of Flight Delays (Delay Management) in Scheduled Commercial Air Transport Business Entities in Indonesia,

³ Peraturan Menteri Perhubungan Republik Indonesia Nomor PM 18 Tahun 2020

⁴ Peraturan Menteri Perhubungan Republik Indonesia Nomor PM 41 Tahun 2020

⁵ Peraturan Menteri Perhubungan Republik Indonesia Nomor PM 25 Tahun 2020

⁶ (Peraturan Menteri Perhubungan Republik Indonesia Nomor PM 89 Tahun 2015

Article 3 letter f, Article 9 paragraph (1) letter f, and Article 10 paragraph (1) and (2). has regulated the categories of flight delays and cancellations, and the obligation of air transportation business entities (airlines) to return all ticket costs in cash or bank transfer. Thus the rules for returning tickets during the Covid-19 pandemic do not contain the airline's obligation to return canceled tickets in cash, this has the potential to cause losses on the part of consumers.

An example of a flight ticket cancellation case, namely, the case experienced by Praditya who ordered flight tickets through the Lion Air airline, he ordered 44 tickets at a cost of sixty million rupiah on 12 and 13 April 2020, with the aim of Aceh to Jakarta with his family. the amount, the ticket he had bought was canceled but could not be replaced with money, the airline gave a replacement in the form of a flight voucher that can be used anytime and for anyone (Anwar, 2020)⁷. This raises questions about the form of consumer protection because not all passengers use air transportation services on a regular basis, and there are also those who require replacement in cash quickly so that replacement in the form of vouchers can cause losses on the side of prospective passengers..

See in more detail the regulations of the Minister of Transportation, Minister of Transportation PM 89 of 2015 in the Remembering section, namely the legal basis for the rules that underlie (Pramesti, 2016)⁸, Law Number 8 of 1999 concerning Consumer Protection ranks first in terms of the legal basis for the Permenhub, while when compared to Permenhub PM 25 of 2020 which is a regulation during the Covid-19 pandemic, in the section Remembering that there is no Consumer Protection Act that become the basis of regulation. From this phenomenon, it can be seen that during the Covid-19 pandemic, consumer protection for canceling airline tickets was reduced, but if you look at the conditions of the Covid-19 pandemic which is an extraordinary event that has a wide impact not only on passengers, but also on airlines

The impact of the pandemic is not only felt by domestic airlines but also the majority of airlines in the world. The issue of returning passenger tickets for flight cancellations is also a global issue that occurs in many countries, ticket refunds are related to the survival of the aviation sector and the tourism sector where when the ticket money that has been paid is returned to the prospective passenger, the cash flow of companies in both sectors increasingly difficult amid the large number of canceled tickets, IATA estimates that global airlines owe around US\$ 35 billion to prospective passengers due to flight cancellations until June 2020 (Sabnis & Deshpande, 2021)⁹.

⁷ Anwar, M. C. (2020). *Curhat Penumpang Pesawat: Batal Terbang, Uang Pun "Nyangkut."* CNBC Indonesia. <https://www.cnbcindonesia.com/news/20200420174532-4-153199/curhat-penumpang-pesawat-batal-terbang-uang-pun-nyangkut>.

⁸ Pramesti, T. J. A. (2016). *Arti 'Menimbang' dan 'Mengingat' Dalam Peraturan Perundang-Undangan - Klinik Hukumonline*. Hukumonline.Com.

⁹ Sabnis, A., & Deshpande, A. S. (2021). *Protection of Consumer Rights in Covid-19 Pandemic Airline & Package Tour Refunds* (Paper for 5th Intergovernmental Group of Expert (IGR) Conference of UNCTAD - 5th & 6th July 2021)

Looking at the regulations before the Covid-19 pandemic in the European Union, namely EC No. 261 /2004, article 8¹⁰ (The European Parliament and of The Council, 2004) provide passenger rights in the event of a flight ticket cancellation in the form of an offer of reimbursement (refund in cash) or re-routing options. The European Union (EU) 2015/2302 directive regarding consumer rights related to travel packages, in article 12 paragraph 2 stipulates the possibility of a full refund in the event of an extraordinary event or the airline's ability, but this does not eliminate the case for ferries to get a refund in the form of cash¹¹ (DIRECTIVE (EU) 2015/2302, 2015). Seeing the situation and conditions of the Covid-19 pandemic which is pressing the finances of airlines and tourism companies, the European Union Commission (EU) also has a commission recommendation (EU) 2020/648, namely on vouchers offered to passengers and travellers as an alternative to reimbursement for cancelled package travel and transport services in the context of the COVID-19 pandemic, recommendations for the use of vouchers to avoid bankruptcy in the aviation and tourism sectors. Using vouchers is considered better than airlines going bankrupt and then not being able to provide any compensation (COMMISSION RECOMMENDATION (EU) 2020/648, 2020).¹² European Union member countries also provide financial assistance to airline operators in the amount of between 800 thousand pounds to 7 billion pounds, but the funds are not directed directly to reimbursement of passenger tickets, but for airline company liquidity assistance, but this has an indirect impact on the airline's ability to compensate passengers (European Court of Auditors, 2021).¹³

From the ticket cancellation rules during the COVID-19 pandemic that apply in Indonesia and the rules in the European Union, it seems that they are similar and in line with the interests of consumers being sidelined and regulators preferring to save the airline industry and its derivative industries in the tourism sector. The giving of vouchers is also not in accordance with the Benefit Principle which is written in Article 2 of the Consumer Protection Law¹⁴ (UU No 8 Tahun 1999 Perlindungan Konsumen, 1999), so that both consumers and airlines have the right to obtain benefits that are useful for both parties, and one party may not receive benefits while the other party suffers losses.

In February 2021, a network of consumer protection authorities from 6 countries, namely Belgium, Germany, Greece, Italy, Spain, and Sweden with the support of the European Commission, requested information from 16 European airlines that received the most complaints from consumers. Based on the results of their discussions, they managed to get an agreement and commitment from Airlines including to complete reimbursements that have not been carried out within 7 days, airlines will clearly distinguish between ticket cancellations made by consumers and those made by airlines,

¹⁰ The European Parliament and of The Council. (2004). Regulation (EC) No 261/2004. *Official Journal of the European Union*, 9, 1–7.

¹¹ DIRECTIVE (EU) 2015/2302, 2014 (2015)

¹² The European Commission. (2020). COMMISSION RECOMMENDATION (EU) 2020/648. *Official Journal of the European Union*, May, 10–16..

¹³ European Court of Auditors. (2021). *Special Report: Air Passenger Rights During the Covid-19 Pandemic: Key Rights Not Protected Despite Commission Effort*.

¹⁴ UU No 8 tahun 1999 Perlindungan konsumen, UU no 8 tahun 1999 perlindungan konsumen 1 (1999). <https://jdih.go.id/search/pusat/detail/832971>

airlines will replace vouchers (vouchers given at the beginning Covid-19 pandemic) which has not been used with money if the passenger expects it ¹⁵(Consumer Protection : Airlines Commit to Timely Reimbursement after Flight Cancellations, 2021).

IV. CONCLUSION

The phenomenon of the rise of flight ticket cancellations during the Covid-19 pandemic has become a global issue. The Covid-19 pandemic has had a broad impact on all economic sectors, especially the aviation and tourism sectors. The government's policy to limit air transport travel has a direct impact on the prospects for the survival of airline companies which are increasingly under pressure. Therefore, the government as the regulator issued the Regulation of the Minister of Transportation on air transportation restrictions in which there is a ticket cancellation policy by providing ticket refund options in the form of re-scheduling, re-routing or vouchers, the government does not provide the option of returning tickets in cash. The rules are similar and in line with what applies in the European Union. This is a form of reduced government support for consumer protection in Indonesia in particular, but this is the impact of the emergence of the Covid-19 pandemic which is an extraordinary event which if opened the opportunity for refunds in cash, it will have the potential to create bankruptcy in the aviation and tourism sectors which also lead to bankruptcy. will have an impact on the economy of the wider community.

Recommendation

Observing the complex phenomena that occurred due to the Covid-19 pandemic, the authors advise the government to continue to provide protection to consumers in the form of policy support regarding the possibility of giving refunds in cash, selectively to passengers according to certain criteria, or direct cash assistance to consumers with purchase part or all of the vouchers owned by consumers, which then remain valid as payment instruments at the airline which can be resold to the airline if the airline's financial condition has stabilized.

¹⁵ European Commission. (2021). *Consumer protection : Airlines commit to timely reimbursement after flight cancellations* (Issue September).

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