

# Airport Responsibility Towards Late Flight Due to No Operation of Flight Navigation Equipment Based on Law Number 1 Of 2009

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## Abstract

At the beginning of the first world war the airport system was still very simple, starting with the presence of an airfield or airfield. the Dutch occupation of Indonesia during the colonial period, but in practice the problems of airport operational problems still occur and these problems greatly affect flight operations, ranging from flight delays, to flight cancellations due to these problems. What is the form of airport responsibility for flight delays caused by damage to supporting flight operations equipment. And how is the protection given to airport service users affected by delays caused by flight operations. The author conducts research in this issue using the normative method supported by expert interview data. The author is that in this problem there are flight delays caused by the inoperation of runway lights.

**Keywords:** *Responsibility for Delays, Runway Lights, Airports*

## 1. PRELIMINARY

### A. Background

Indonesia is the biggest archipelago country in the world. Having 17,000 islands and an area the size of the European continent, this makes it a challenge for the Indonesian people to maintain the unity and unity of the country. Connectivity between regions is one of the many challenges that must be faced. A reliable transportation system can certainly answer the challenges of connectivity between these regions.

The transportation system is an inseparable thing in human life since long ago, even moving or moving is a

basic characteristic of living things. Starting from simple transportation, namely feet, until now the development of transportation is very rapid. Transportation has been around for thousands of years, starting with the creation of a raft or canoe to cross the water, then followed by the creation of the wheel 3500 years ago which became the forerunner of today's modern transportation.<sup>1)</sup>

<sup>1)</sup> Mr. C. Nguyen, "The History of Transportation", <https://www.thoughtco.com/history-of-transportation-4067885> (accessed January 15, 2020).

The development of technology has a very broad impact, this is also felt by various fields besides the technology sector itself, the transportation industry sector also feels the sweet fruit of the development of technology. At this time, there is a lot of convenience provided by transportation in life, one can move from one country to another within one day with the presence of a fast and efficient transportation system. Airplanes are the most effective means of transportation compared to other means of transportation, besides that, airplanes are also the safest means of transportation compared to other means of transportation, namely with a mortality risk rate of 0.07 (zero point zero seven) deaths per 1 billion passengers in the year 2000-2009.

At present, an increase in the number of users of air transport services occurs, this is based on world market forecast data made by Airbus, an aircraft manufacturer from France. Airbus estimates that there will be an increase in users of air transportation modes of around 4.4% (four point four percent) annually in the 2018-2037 period.<sup>2)</sup> Of course, from a business perspective, this will greatly benefit industry players if they can take advantage of this moment properly.

However, aviation is a very, very complex industry, there are many supporting factors that take part in an aviation operation. Starting from human resource factors such as flight crews and

<sup>2)</sup> Airbus, "Global Market Forecast 2018-2037: Global Networks, Global Citizens", available <https://www.airbus.com/aircraft/market/global-market-forecast.html> (accessed January 18, 2020)

ground crews, to the availability of aviation support infrastructure, such as flight radios, flight navigation tools, to airports for aircraft landing and taking off, as well as for the passage of passengers or goods. Of course, the synergy between all these factors is expected to create safe, efficient and low cost flight operations.

The main objective of airport operations is efficient and effective planning, implementation and control of air transport services at the airport. The existence of an airport is very vital in flight operations, this is often expressed with a saying "every successful flight begins and ends at an airport", namely everything in successful modern aviation starts and ends at an airport, making the existence of an airport important in supporting an airport. flight operations.<sup>3)</sup>

In its early days (after the First World War), the airport system was still very simple, starting with an airfield. Airfield is not as complex as an airport (airport), usually just an empty field for aircraft to land and take off. The field is usually made of hardened soil, not using asphalt or concrete layers as it is today. Rapid development has occurred since the second world war ended, this is supported by the technological developments that occurred during the war, airplanes have become increasingly common (not only a handful of people can enjoy them), so that the airfield must adjust itself by improving facilities to support development. and improvements in the aviation industry,<sup>4)</sup>

In Indonesia itself, the development of airports began during the Dutch occupation of Indonesia during the colonial period, several airfields were built by the colonial government to support their operations in Indonesia, some examples of airfields being built are Kalijati airfield in Subang which was built in 1914 and was the first airfield built by the colonial government, the Cililitan airfield in Jakarta / Batavia which was built in 1920, and several other airports in Bandung, Surabaya and Medan.<sup>5)</sup>

The development of the times immediately affects the development of the aviation industry, including the development of airports. Kemayoran International Airport is an example of a form of adaptation made by Indonesia to adapt to developments in the world of aviation. Being the first international airport in Indonesia, the airport is expected to be the main gateway for foreigners visiting Indonesia. Developments continue to occur, to date, Indonesia has dozens of airports operating with international standards, of course with the hope of increasing foreign guests or tourists and facilitating the mobility of goods in and out of Indonesia from various locations in Indonesia.

In Article 1 number 31 of Law Number 1 of 2009 concerning Aviation (Aviation Law) the purpose of airports is

to organize airports and carry out the functions of safety, security, smoothness and orderliness of the traffic flow of aircraft, passengers, cargo, and / or post. Of course, as a mandate from the Aviation Law, it should always be realized and applied in practice. Support from all aspects of the airport is needed so that these goals can be carried out in accordance with what is aspired.

However, in practice airport operational problems still occur, and these problems have a major impact on flight operations. Starting from flight delays (flight delays), to flight cancellations that occur due to these problems. For example, what happened at Halim Perdanakusuma Airport in Jakarta. On October 30, 2017, flight delays and cancellations occurred due to the runway instrument lights of Halim Perdanakusuma Airport being turned off due to lack of electricity supply, so that many scheduled flights had to be canceled and diverted due to the incident. The blackout of the runway lights occurred Monday night until Tuesday morning.<sup>6)</sup>

Tourism, which is currently Indonesia's mainstay industrial sector, is of course very dependent on the existence and readiness of infrastructure, especially airports, considering that both domestic and foreign tourists will make airports their main doors in visiting certain areas in Indonesia. Certainly, the readiness of airports to operate becomes the backbone for this industrial sector. Seeing the facts above, encourages the author to further examine the responsibility of airports for flight delays due to non-operation of flight navigation devices based on Law Number 1 of 2009 concerning Aviation.

## **B. Problem**

Based on the description described in the background, the authors formulate the problems, namely:

1. What are the regulations and government policies in the aviation sector in terms of fare setting from the perspective of Law Number 8 of 1999?
2. How is the protection of consumer rights regarding the upper and lower limit tariffs of air transportation services based on Law Number 8 of 1999?

## **C. Research methods**

The definition of method, comes from the Greek word "methodos" which means a way or towards a path. The research method is a process, principles or procedures for solving problems faced in conducting research, which is an attempt to find, test the truth of a knowledge carried out by using scientific methods. The method in the book written by Soejono Soekanto is an absolute element that must be present in a research that functions to develop science. Legal research is a scientific

<sup>3)</sup>Jeffrey C. Price and Jeffrey S. Forrest, *Practical Airport Operations, Safety, and Emergency Management: Protocols for Today and the Future*, (Oxford: Elsevier, 2016), p. 3.

<sup>4)</sup>Antonin Kazda and Robert E. Caves, "Airport Design and Operation", 3rd edition, (Bingley: Emerald Group Publishing, 2015), p. 1.

<sup>5)</sup> Petrik Matansi, "Initially it was Maguwo, Maospati, and Bugis", available

<https://tirto.id/awalnya-adalah-maguwo-maospati-dan-bugis-bwlb>, (accessed January 19, 2020)

<sup>6)</sup> Reska K. Nistanto, "Runway lights" are off, Halim Airport is closed until Tuesday morning ", available <https://megapolitan.kompas.com/read/2017/10/30/23131601/lampu-runway-mati-bandara-halim-closed-until-tuesday-morning> (accessed January 20, 2020)

activity based on methods, systematics and certain thoughts that aim to study one or more specific legal phenomena by analyzing them. Gathering in search of ingredients,

#### 1. Types of research

This type of legal research is divided into 2 (two) parts, namely normative legal research and empirical legal research (sociology). The legal research used is normative legal research, which includes research on legal principles.

##### a. Research Type

The type of research used in this research is Normative Law Research, which means that it is research on building the norm system. The system of norms in question is regarding the principles, norms, rules of the statutory regulations, court decisions. In conducting this research, the author will analyze and also examine the protection of consumer rights that must be obtained in accordance with the problems contained in the articles used in this study.

##### b. Type of Approach

According to Mukti Fajar, there are 7 types of approaches in normative legal research, namely, Legislative Approach, Concept Approach, Analytical Approach, Comparative Approach, Historical Approach, and Case Approach. This type of approach is a statutory approach, in which the researcher uses statutory regulations as the initial basis for conducting the analysis.

#### 2. Nature of Research

The nature of this research is descriptive analytical which aims to describe or obtain a description (description) of the legal conditions prevailing in a certain place and at a certain time or regarding the juridical symptoms that occur in society. The argument here is made by the researcher to provide an assessment of right or wrong or what should be according to the law regarding the facts or legal events from the results of the research.

#### 3. Types and Sources of Data

In research, it is always necessary to have material or data that will be searched for and then processed and then analyzed to find answers to the research problems posed. Secondary data from normative research include the following legal materials:

- a. Primary Legal Materials, consisting of laws and regulations. In this study, the primary material used is the 1945 Constitution of the Republic of Indonesia, the Constitution Number 1 of 2009 concerning Aviation
- b. Secondary Legal Materials, namely legal materials that can provide explanations for primary legal materials, which can be in the form of legislation drafts, research results, text books, scientific journals, newspapers (newspapers), pamphlets, leaflets, brochures, and internet news .
- c. Tertiary legal materials, namely materials that provide guidance and explanation for primary and secondary legal materials, for example, such as a legal dictionary.

#### 4. Data collection technique

The data collection technique used by the author in writing this proposal was by conducting a literature study of legal materials, both primary legal materials, secondary legal materials, and tertiary legal materials. Searching for legal materials can be done by reading, viewing, listening, and nowadays there are many searches for legal materials through the internet. Meanwhile, primary data through interview media

#### 5. Technical Data Analysis

Data analysis is an activity in research in the form of conducting studies or examining the results of data management aided by theories that have been previously obtained. The data analysis technique used is qualitative normative analysis. In analyzing this research, the writer uses 1 (one) approach, namely the statutory approach (Statute Approach), it is intended that the researcher uses statutory regulations as the initial basis for conducting the analysis. According to Law Number 12 of 2011 concerning the Formation of Laws and Regulations, Legislation is a written regulation that contains legally binding norms and is formed or stipulated by state institutions or authorized officials through procedures stipulated in statutory regulations. invitation. Then,

## 2. DISCUSSION

### A. Airport Liability to Airline Companies due to non-operation of runway lights

Airport is an aspect and a very important part in the world of world aviation, especially Indonesia, considering all aviation activities are located at airports. various laws and regulations in the field of aviation are inseparable from airport management such as operations, engineering, economy, smooth passenger traffic, aviation safety, aviation security, environment, airport operator responsibility, insurance, facilitation, coordination, concession, concession, workshops, recreation, and others are inseparable from legal issues that must be handled by airport managers.<sup>7</sup>

The existence of an airport apart from being a gateway to an area or a country is also a symbol of an area or country that will be known or remembered by aircraft passengers both domestic and international who come and go using an airplane, an airport as a facility for aircraft be able to take off and land have the minimum equipment to ensure the existence of facilities for air transport to transport.

In this case, each airport and airline company has an agreement for the airline to operate and get airport services and airport-related services, in connection with these services the airline company pays service fees for services to airport business entities, the amount of fees These services are regulated in the agreement between the airport and the airline.

Based on this information, the airport business entity as an airport manager that operates the place where the aircraft takes off, boarding and disembarking passengers, loading and unloading goods, and places for intra and antromodal transportation of transport should have adequate aviation safety and security facilities standards so as not to pose a risk of loss for airlines as the main users of airport services

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<sup>7</sup> HK Martono, *Air Law, Air Transport and Space Law, International Maritime Law*, Jakarta: Mandar Maju.

## **B. Enforcement of Airport Business Entity Responsibilities**

The issue concerning the principles of responsibility for airport business entities is the requirements for the enforceability of airport business entity responsibilities. This issue is very important because it will determine whether the airport can be held responsible if there is a loss suffered by airlines and passengers due to the shutdown of the runway lights at Halim Perdana Kusuma Airport.

Body The airport business has a working bond and has a service level agreement. According to the Regulation of the Minister of Transportation PM 129 of 2015 concerning guidelines for drafting service level agreements in the provision of services to airport service users, what is meant by a service level agreement is:

"agreement on services rendered and received between service providers and service users as stated in the contract document"<sup>8</sup>

This service level agreement is related to airport services, which includes:

1. Airport services
2. Airport related services

Airport services as referred to include aircraft, passenger, goods and po services which consist of provision and development covering:

1. Facilities for service activities for landing, taking off, maneuvering, parking and storing aircraft,
2. Terminal facilities for passenger, cargo and postal transportation services,
3. Electronics, electricity, water, and waste disposal facilities,
4. Land for buildings, fields and industry as well as buildings or buildings related to the smooth running of air transportation.

Airport services as referred to include:

1. Related services to support aircraft operation services at airports,
2. Related services to support passenger and goods service activities,
3. Related services to provide added value for airport entrepreneurs

In providing these services, the air entity business entities coordinate with airport service users who have a working relationship with the airport as outlined in the form of a service level agreement.

Based on Article 8 Paragraph 2 of Ministerial Regulation PM 129/2015 in providing services to airport service users whose service level agreement as referred to in Paragraph 1 contains at least:

1. Basic guidelines,
2. The party signing the agreement,

3. The form of service promised by the agreement,
4. Service implementation standards,
5. Other matters agreed upon,
6. Period of time,
7. Assessment and reporting,
8. Rights and obligations of the parties,
9. Compensation,

In providing services to airport service users who sign the agreement as made by the parties, among others:

1. Airport business entities with the main users of airport services
2. Airport business entities with airport-related service providers
3. Airport business entities with airport service providers
4. An airport business entity with a flight navigation service provider

In connection with the service of an airline company paying a fee for services to an airport business entity, the amount of the service fee is regulated in accordance with the agreement between the airport business entity and the airline company. This is regulated in Article 245 of Law Number 1 of 2009 concerning aviation, namely:

"The amount of tariff for related services at airports is determined by related service providers based on an agreement between service users and service providers "

Based on the agreement, the airport business entity has an obligation to the airline company to provide services related to aircraft landing, take-off, maneuvering and aircraft thinking as well as providing certainty information to the scheduled airline so that it can land at the destination airport.

Therefore, ithe loss suffered by the airline as well as the passenger arises because of a deliberate act or leak from the airport business entity, the airport business entity is responsible for the losses arising therefrom. Because the runway lights are off, of course it causes losses for the airline and its passengers, in which case the airline has to bear fuel costs and changes to flight schedules. And passengers find losses in the form of material or other things.

According to Ridwan Khairandy, in principle, responsibility based on the presumption of guilt is the principle of responsibility based on guilt, but by reversing the burden of proof on the defendant.<sup>9</sup>

According to HK Martono, the principle of legal responsibility based on presumption of guilt has been implemented since the 1929 Warsaw convention. According to the principle of presumption of liability. The defendant is considered guilty, so the defendant by law must pay compensation suffered by the plaintiff without being proven guilty beforehand, unless the defendant proves his innocence. The plaintiff does not need to prove the defendant's error, it is enough to inform the loss that occurred during the implementation of the activities in the

<sup>8</sup> Regulation of the Minister of Transportation of the Republic of Indonesia number PM 129 of 2015 concerning guidelines for drafting Service Level

Agreements in providing services to airport service users Article 1 Number 7

<sup>9</sup> Ridwan Khairandy, 2013, Principles of Indonesian Commercial Law, Yogyakarta: FH UII Press

agreement, so that the plaintiff does not need to prove the plaintiff's error.<sup>10</sup>

That way airlines and passengers can also ask for compensation for the runway lights at Halim Perdana Kusuma Airport that have died due to an airport operation error or service mismatch that has been agreed upon, unless the airport business entity can prove that the runway light failure was not due to a mistake. airport.

### **C. Legal Remedies to Get To Get Compensation If Losses Occur**

The business dynamics with their ups and downs also result in the continuity of the contractual relationship between the parties. What is projected to be smooth, profitable, satisfying, bright business prospects can sometimes turn out to be at a loss and cut the business relationship between the parties. Likewise with contracts, the contracting parties always expect their contracts to end well. However, it does not rule out that the contract will encounter obstacles and even lead to contract failure.<sup>11</sup>

Contracts as an instrument of exchange of rights and obligations are expected to take place properly, fairly and proportionally in accordance with the agreement of the parties. Especially in commercial contracts, both at the contractual stage, contract formation and implementation, have the power to work to create rules for the exchange of rights and obligations.

Airport business entities and airline companies have an agreement and work bond for the airline to obtain airport services and airport related services, in connection with these services the airline company pays service fees to airport business entities, the amount of the service fee is regulated according to the agreement between the agencies. airport businesses and airlines.

Based on this definition, there is a legal relationship that exists between airport business entities and airlines, that airport business entities promise to provide services to airlines in the form of airport facilities and airport-related facilities. By collecting fees for services from the service recipient. Get achievements in accordance with Article 1234 KUHPERDATA from airport business entities to do something. If the airport business entity can be declared to have committed default. Therefore parties from airlines as well as passengers can file a lawsuit against airport business entities to ask for compensation, for delays and flight diversions.

The matter of tardiness can be divided into several categories listed in article 3 of Ministerial Regulation Number 89 years 2015 regarding the handling of flight delays (*Delay Management*) on scheduled commercial air transport business entities in Indonesia that can divided into 6 (six) categories, among others :

1. Category 1, 30 minutes to 60 minutes delay
2. Category 2, a delay of 61 minutes to 120 minutes
3. Category 3, delay of 121 minutes to 180 minutes
4. Category 4, a delay of 181 minutes to 240 minutes

5. Category 5, a delay of more than 240 minutes

6. Category 6, flight cancellations

And the meaning of flight diversion Article 10 Paragraph 3 is Air Transportation Business Entity in transferring to the next flight-or flight belonging to another scheduled commercial business entity as referred to in Article 9 letters f and g, passengers are exempted from additional costs, including an upgrade of service class (up grading class) or in the event of a class downgrade or service sub-class must be given the remaining excess money from the ticket given.

In the case that took place at Halim Perdana Kusuma Airport on October 30 2017 at 19.30 WIB to 01.30 WIB the runway lights at Halim Perdana Kusuma went out due to a decrease in the condition of the facilities, this caused as many as 17 flights to be diverted to Soekarno Hatta Airport and 3 more flights were postponed, from this the writer argues that there are losses from passengers and also from the airlines seen from the description above for the responsibility of the airport to the airline there is already a service level agreement but it is only an agreement between the two parties only while for the passengers there is no clear arrangement for their responsibilities, and even though this service level agreement has existed, there is still a throwing of responsibility from the airport to the airlines, and it is also seen from the existing regulatory regulations from Law Number 1 of 2009, Ministerial Regulation PM 39 of 2019 is the same absolutely no explanation of the airport liability regulations from the regulatory regulations only contains the responsibility of the airline, while the error in the case occurs due to the airport's absence of clear regulations regarding airport responsibility, therefore the author is of the opinion there is a legal vacuum in this case. and seen also from the existing regulatory regulations from Law Number 1 of 2009, Ministerial Regulation PM 39 of 2019 in no way provides an explanation of airport liability regulations from the regulatory regulations only contains the responsibility of the airline while the errors in The case occurred as a result of the airport, which did not have clear regulations regarding the responsibilities of the airport, therefore the author is of the opinion that there is a legal vacuum in this case. and seen also from the existing regulatory regulations from Law Number 1 of 2009, Ministerial Regulation PM 39 of 2019 in no way provides an explanation of airport liability regulations from the regulatory regulations only contains the responsibility of the airline while the errors in The case occurred as a result of the airport, which did not have clear regulations regarding the responsibilities of the airport, therefore the author is of the opinion that there is a legal vacuum in this case. The Regulation of the Minister of PM 39 of 2019 does not explain the airport responsibility regulations at all from the regulatory regulations only contains the responsibility of the airline, while errors in cases occur due to the airport which does not have clear regulations regarding responsibility. airport, therefore the author believes there is a legal vacuum in this case. The Regulation of the Minister of PM 39 of 2019 does not explain the airport responsibility regulations at all from the regulatory regulations only contains the responsibility of the

<sup>10</sup> HK Martono and Agus Pramono, 2013, *National and International Civil Aviation Law*, Jakarta: RajaGrafindo Persada,

<sup>11</sup>Ibid. page 61

airline, while errors in cases occur due to the airport which does not have clear regulations regarding responsibility. airport, therefore the author believes there is a legal vacuum in this case.

And in Article 240 of Law Number 1 Year 2009, which explains that the airport is responsible only for:

1. The death or physical injury of a person,
2. Destroyed, lost, or damaged equipment operated,
3. Environmental impacts around airports due to airport operations.

It does not show here what the form of responsibility is in the event that the runway lights are not operating.

### 3. CLOSING

#### A. Conclusion

Liability based on the case of runway blackout at Halim Perdana Kusuma Airport has not been legally regulated in the Prevailing Laws. In Law No. 1 of 2009 and also in Ministerial Regulation No. 39 of 2019, it only regulates the issue of how the responsibility of the airline is and the explanation of the administration of the airport. There are no clear and detailed regulations regarding the responsibility of the airport due to the inoperation of the flight navigation device, because if you look at the blackout case of the runway lights at Halim Perdana Kusuma Airport, it is clear that the fault is on the side of the airport because here the party from Halim Perdana Kusuma Airport stated that the death of the runway lights was due to a decrease in the condition of the facility,

So from the results of the research that has been done, the authors can conclude that the most appropriate form of the concept of responsibility is the principle of responsibility based on the element of error (liability based on fault). The author's opinion is based on evidence of error from Halim Perdana Kusuma Airport which states that there is a decrease in the condition of the facility.

#### B. Suggestion

The author's suggestion is based on the results of the writing that the author has stated above, namely that the government should have started to make clear regulatory planning related to airport responsibilities because errors from airports have often occurred quite often in Indonesia, there are many impacts of losses suffered by airport service users, so that the occurrence of a legal vacuum here is expected to the government so that the legal vacuum will be here immediately, so that users of this airport service get legal certainty from the occurrence of cases like this, and also so that parties from airlines are not always used as throwing responsibilities resulting from the airport's fault.

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