

# Analysis of Airline Liability for the Rights of Persons With Disabilities in Transportation Law Based on Act No. 1 of 2009 Concerning Flight (Case Study of Decision Number 2368k/ Pdt / 2015)

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## ABSTRACT

Every human being is given the right to freedom that makes someone able to do or do things according to his wishes, but someone must obey the laws or rules in force in an area if the actions violate or contravene the rules called the act against the law initially every treatment against the law sanctions will always be given if this is stipulated in the law, acts against the law can also be in the form of acts against which based on negligence of responsibility carried out by the airline and the airport. Implementation of articles 134 and 135 of the airline on the responsibility of the airline and the airport to passengers who have special needs. which will be reviewed using the normative method based on the law. the results showed that there was a lack of decisiveness in providing sanctions for violations of the responsibility towards someone with special needs (disability)

**Keywords:** *disability, airline responsibility, due to airline loading*

## 1. INTRODUCTION

Talking about technological inventions, we speak during the heyday of industrial revolution i.e. in 1801. Tools found in the heyday of the industrial revolution in 1801 changed the progress of the flow of transportation equipment into various forms, such as the invention of steam trains and railroad lines that could make displacement subjects with land routes to move more quickly and can be more controlled by humans without the help of animal power. It also makes progress in speed and tamping in a mode of transportation.

With the advancement of transportation modes that use engines with fuel and automobiles in the 1901s, the progress of land transportation modes has also become

increasingly awkward. Roads that use asphalt material were first used in early 1901. Then, technological advances have reached a high level with the invention of aircraft by the Wright Brothers.

After the Second World War (World War II) was over, began various advances in transportation by airplane mode which resulted in fewer land transportation modes. in 1957 discovered a rocket or aircraft that could be flown into space (SPACE CRAFT).

In 1950 he found several commercial aircraft ranging from commercial aircraft used by parties to fight in fighting intermediaries and war equipment. In addition to commercial airplanes, fuel-based transportation or cars have increased making modes of land transportation such as motorbikes and cars

resulting in accessible or obtainable Advances in Technology Mode of transportation in the technological era is very supportive of life in the world. oaring who live in rural areas that are difficult to get money because of limited sales, because there is a mode of transportation can facilitate sellers and delivery of products made by people in the interior to be sold back to the city and make people live more prosperous With the existence of modes of transportation technology we can speed up the time needed to move from one area to another with a shorter time than increasing time for the advancement of other technologies. From the background explained we can know where the advanced technology of transportation to support humans, which is currently developing to make progress in making this progress,

humans need to do to use fuel from materials that cannot be preserved again because it could be threatened not there is more on earth. As many technological inventions as possible, humans must evolve and need humans to make the rules needed by humans to make a peaceful world by making rules that regulate the rights and obligations of each person that can be interpreted according to provisions, whatever rights can be done by someone who has issued assistance, done with whatever must be done to get the rights promised, the agreement that I discussed is a transportation agreement made between two or more people who make a legal duty to search to help people or goods that are agreed upon. followed by the parties responsible. In carrying out the responsibilities in the transportation agreement in being two responsibilities for transportation to passengers and disabilities. In the responsibilities that are accounted for disability passengers which I will discuss in

articles 134 and 135 of Law Number 1 Year 2009 concerning Aviation (hereinafter referred to as the Aviation Law)

### ***1.1. Formulation of the problem***

How is the implementation of Article 134 of Law Number 1 Year 2009 regarding flights to the responsibilities of airlines to the rights of passengers who hold disability status (based on Decision Number 2368K / PDT / 2015)?

### ***1.2. Legal Research Methods***

In accordance with the description of the problem and the purpose of this study, the nature of the research used is analytical research, which means "to develop what we find when researching and analyzing in accordance with the rules that are in force or the rules that exist in the region". so that this research can provide an overview of the analysis of justice at the time of decision making in order to review law number 1 of 2009 concerning transportation. This research was conducted through a statutory approach. My research method is a normative research that is research based on the law, where the reviewer will see a real situation with what has been regulated in the law and also the reviewer looks at the order of the law in force in a country from the highest to the highest. the lowest. Normative research is based on what is happening and compared with the law in force in a country at that time in other words that the reviewer compares whether the reality and the rules are the same or conflicting

The source of research is a material or data that supports research both legal and non-legal materials. In this research, my sources are divided into three, but those that are more

focused on the rules that apply in Indonesia because my research method is normative

## **2. BACKGROUND**

### ***2.1 Responsibility analysis***

According to the law responsibility is something related to morals or ethics, which is caused by non-fulfillment or conflict with what has been promised. In the agreement of liability caused by the parties not fulfilling the rules made or the conditions that have been agreed upon

Liability can be interpreted in English as follows, namely liability and responsibility.

Liability is a result or risk or liability that is faced by the treaty party, which is in accordance with the law based on the rights and obligations of the parties who have made the agreement and arranged in the agreement. Responsibility means something that must be accountable such as jurisprudence and also the results of other court results, in other words that Responsibility is the responsibility for what has been done in accordance with the applicable laws or regulations. In terms of day-to-day responsibility is something that we can be accounted for in a law that can better refer to political accountability.

In Indonesia, legal responsibilities are divided into 2 laws, namely criminal liability and civil liability which can be described as follows:

#### **1. Criminal response**

Criminal liability is liability arising because someone is free to do something but as long as it is not contrary to the law, every action that is contrary to the law must be legally accountable.

In the sense of the word that every responsibility is a result of freedom that is contrary to the law which results in harm to others both physically and mentally someone

#### **2. Accountability in the Civil Code**

Civil liability is different from criminal liability. Civil liability is a liability based on losses incurred due to acts against the law or acts of default.

Acts against the law are acts that can be done in the category of agreement or outside the category of agreement. Acts against the law can be interpreted that every act that is contrary to the law and also the rules in force in the country resulting in harm to others.

Default is something that is done intentionally by a party in the agreement that does not fulfill what has been promised or is contrary to what is in the agreement that can cause harm to other parties, but if the action is based on a forced situation then it must be responded to with policy to the party that carries out the default

In civil law the responsibility is divided into several responsibilities, i.e.

- Liability is based on mistakes
- Absolute liability
- Limitation of liability
- Presumption of non-liability

### ***2.2 Implementation of Special Responsibilities to Someone With Disabilities Set In Act Number 1 Year 2009 Regarding Aviation***

Articles 134 & 135 governing passengers who have special needs or are referred to as disabled in the Aviation Law in article 134 which we can conclude as follows

(1) The airline must provide more specialized or priority services for people who have a disability status or have special needs, namely people with disabilities, under 12 years of age and severe illness.

(2) The services and facilities referred to in article 1 are as follows:

- Every person with special needs has seat priority;
- Has a lift facility that is useful for going up and down for disabled passengers;
- Provide information and also a companion during the trip on and off the plane for someone who has special needs;
- Providing assistance to sick people;
- Providing an empty space for children's playground in the position of long-distance flights on the plane or at the airport
- Provide translators to help passengers with special needs and
- Provide user manuals and clear information for passengers and can also be easily understood by passengers with special needs.

(3) all assistance and facilities provided by airlines and airports are free of charge

Article 135

- Enabling facilities for people with special needs are regulated in ministerial regulations.

The implementation of article 134 on flights can be found in several ministerial regulations that serve as a further regulation of articles 134 and 135 of law number 1 of 2009 regarding flights as follows:

- Regulation of the Minister of Transportation of the Republic of Indonesia Number Pm 98 of 2017 concerning the

Provision of Accessibility to Public Transportation Services for Users with Special Needs. In Articles 2,3,4 and 5

- Regulation of the Minister of Transportation of the Republic of Indonesia Number Pm 185 of 2015 Concerning Passenger Services for Economy Class Scheduled Domestic Commercial Air Transport. Article 42-57

- Regulation of the Minister of Transportation of the Republic of Indonesia Number Pm 178 of 2015 concerning Airport User Service Standards. Article 4

### **3. CONCLUSION**

The conclusion that can be understood in this study is that every airport officer and airline officer must obey the rules on the responsibilities of the airline and the airport based on law number 1 of 2009 concerning flight, more precisely in article 134 and article 135 to passengers who have needs disability (special needs).

According to the law responsibility is something related to morals or ethics, which is caused by non-fulfillment or not in accordance with what has been promised. in the agreement of liability caused by one party does not meet the rules that have been made or the conditions that have been agreed upon.

The responsibility itself arises from the loss suffered by someone, because in the agreement made, there is one party that does an action that is not in accordance with what was promised either done intentionally or unintentionally, in this case the loss suffered by Ridwan Sumantri was a loss caused by the negligence of the airport staff and the airline staff, namely not carrying out articles 134 and 135 of law number 1 of 2009 concerning flight, causing losses suffered by Ridwan

sumatri that we can categorize the losses. in two categories, namely material and immaterial losses. Material losses Material losses: Namely losses caused by other parties in the agreement. immaterial loss: That is the loss that will be gained in the future that can be accounted for if the agreement can run smoothly without obstacles.

In the flight law number 1 of 2009 in articles 134 and 135 it is regulated about the responsibility of the airline to passengers who have special needs, which is more clearly regulated in the Regulation of the Minister of Transportation of the Republic of Indonesia Number PM 98 of 2017 concerning the Provision of Accessibility in Transportation Services Public Service Users with Special Needs (in articles 2,3,4 and 5), Regulation of the Minister of Transportation of the Republic of Indonesia Number PM 185 of 2015 Concerning Passenger Service Classes of Domestic Scheduled Commercial Air Transport Business Classes (Articles 42 - 57) and Ministerial Regulations Transportation of the Republic of Indonesia Pm 178 of 2015 concerning Airport User Services Standard (in article 4)

In every implementation of articles 134 and 135 of the aviation law number 1 of 2009 in the candy mentioned above, administrative sanctions are changed both for fines and revocation of flight licenses, but in the case of Ridwan sumantri a fine of 50,000,000 (fifty) is applied million rupiah) made in accordance with decision number 2368 K / Pdt / 2015

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