

Abstrak

Sektor transportasi umum terdampak pandemi covid-19 yakni transportasi udara. Banyak kota yang memberlakukan sistem *lockdown* atau *social distancing* mengakibatkan hampir seluruh penerbangan dibatalkan. Tujuan penelitian ini menganalisis bentuk perlindungan hukum bagi konsumen terhadap *Refund* (pengembalian dana) tiket transportasi udara selama PPKM (Pemberlakuan Pembatasan Kegiatan Masyarakat), menganalisis pertanggungjawaban maskapai dalam mengembalikan dana serta menyelesaikan sengketa antara konsumen dengan pihak maskapai. Metode penelitian yang digunakan yuridis empiris dengan data primer. Hasil penelitian bahwa berdasarkan Keputusan Presiden Nomor 12 Tahun 2020 Tentang Penetapan Bencana Non-Alam. Penyebaran virus *Covid 19* dikategorikan sebagai Bencana Nasional merupakan keadaan memaksa (*overmacht* atau **Force Majeure**), diatur didalam pasal 1245 KUHPerdota. Maskapai penerbangan memberikan penggantian biaya (*refund*) tiket kepada konsumen dengan memberikan *voucher ticket* didasari pasal 24 Permenhub No. 25 Tahun 2020 mengenai pengembalian tiket berbentuk *voucher*. Pemberian *voucher* dinilai belum maksimal untuk memberikan keadilan kepada konsumen. Penurunan aktivitas operasional penerbangan di bandar udara menghambat proses refund. Penyelesaian sengketa dilakukan dengan cara litigasi (pengadilan) dan nonlitigasi. Pemberian ganti biaya *refund* bagi konsumen didasari pasal 1365 KUHPerdota dengan penggantian kerugian secara langsung. Secara Nonlitigasi dapat dilakukan mediasi, konsiliasi dan Lembaga arbitrase, melalui BPSK diatur dalam pasal 49 UU No. 8 Tahun 1999 tentang Perlindungan Konsumen.

Kata kunci: Refund; Perlindungan Hukum; Konsumen.

Abstract

The public transportation sector has been affected by the Covid-19 pandemic, namely air transportation. Many cities have implemented a lockdown or social distancing system resulting in almost all flights being cancelled. The purpose of this study is to analyze the form of legal protection for consumers against Refunds for air transportation tickets during PPKM (Implementation of Restrictions on Community Activities), analyze the responsibility of airlines in returning funds and resolving disputes between consumers and airlines. The research method used is empirical juridical with primary data. The results of the research are based on Presidential Decree Number 12 of 2020 concerning Stipulation of Non-Natural Disasters. The spread of the Covid 19 virus is categorized as a National Disaster which is a force majeure (overmacht or Force Majeure), regulated in article 1245 of the Civil Code. Airlines provide ticket reimbursement (refund) to consumers by providing ticket vouchers based on article 24 of Permenhub No. 25 of 2020 regarding the return of tickets in the form of vouchers. Giving vouchers is considered not optimal to provide justice to consumers. The decline in flight operational activities at the airport hindered the refund process. Dispute settlement is carried out by way of litigation (court) and non-litigation. Provision of refund fees for consumers is based on article 1365 of the Civil Code with direct compensation. Non-litigation can be carried out by mediation, conciliation and arbitration institutions, through BPSK regulated in article 49 of Law no. 8 of 1999 concerning Consumer Protection.

Keywords: Refunds; Legal protection; Consumer.