



RECONSTRUCTING CONSUMER DISPUTE RESOLUTION FOR AIR TRANSPORTATION SERVICE USERS UNDER CIVIL PROCEDURE LAW

Sri Wahyuni

Universitas Bhayangkara Jakarta Raya, Bekasi, Indonesia

sri.wahyuni@dsn.ubharajaya.ac.id

Efa Laela Fakhriah

Universitas Padjadjaran, Bandung, Indonesia

efa@unpad.ac.id

Anita Afriana

Universitas Padjadjaran, Bandung, Indonesia

anita.afriana@unpad.ac.id

Sonyendah Retnaningsih

Universitas Indonesia, Jakarta, Indonesia

sony.endah@ui.ac.id

ARTICLE INFO

Keywords:

Air Transportation; Civil Procedure Law; Consumer Dispute Resolution; Consumer Protection; Litigation..

ABSTRACT

The increasing use of air transportation services has intensified the legal relationship between passengers as consumers and airlines as business actors, resulting in a growing number of disputes, particularly concerning the loss of passengers' belongings on international flights. This study aims to analyze the ratio decidendi of Supreme Court Decision Number 649 K/Pdt.Sus-BPSK/2016 and formulate a reconstruction model for resolving air transportation consumer disputes through non-litigation and litigation mechanisms from the perspective of civil procedure law. This research employs a normative legal method using statutory, conceptual, and case approaches. Legal materials were analyzed qualitatively through legal interpretation and systematic legal analysis. The findings reveal that the current regulation of non-litigation and litigation dispute resolution for air transportation consumers remains fragmented, creating legal uncertainty. In its ratio decidendi, the Supreme Court affirmed that aviation law constitutes lex specialist and prevails over general consumer protection provisions. Therefore, this study proposes replacing Minister of Industry and Trade Decree Number 350/MPP/Kep/12/2001 with a Government Regulation and aligning litigation procedures with civil procedure law to achieve legal certainty, effective consumer protection, and consistent dispute resolution.

A. INTRODUCTION

The development of the air transportation industry has brought major changes to the mobility patterns of modern society. Air transportation is no longer seen as an exclusive need, but has become part of public needs that are directly related to economic, social, trade, tourism, and international relations.¹ Law Number 1 of 2009's Article 3 declares that the goal of holding flights is to avoid unfair business competition practices and to guarantee the implementation of flights in an orderly, safe, comfortable, and reasonable price. In addition, the purpose of the flight is to encourage, mobilize, and support national development and strengthen relations between countries.² In addition, the direction of strengthening consumer protection is also in line with the Presidential Regulation Number 49 of 2024 about the National Strategy for Consumer Protection, which highlights the significance of enhancing legal certainty, standardizing regulations, and defending consumer rights across a range of service sectors, including aviation.³

On the other hand, the increasing use of air transportation is also followed by increasing consumer disputes in the aviation sector. In practice, consumers often assume that all losses during the flight are the responsibility of the airline, while airlines base their liability on specific provisions that limit the type and amount of compensation. In transportation law, the concepts of presumption of culpability and liability based on fault are well-known, which basically places the carrier as the party responsible for losses, unless it can be proven that there is no fault according to the provisions of applicable law. Conversely, according to the absolute responsibility concept, the carrier must reimburse any damages resulting from the transportation that was done, without the need to prove that the carrier did not commit any wrongdoing.⁴

The national legislation governing consumer protection is Law Number 8 of 1999 pertaining to Consumer Protection. Customers are entitled to compensation under this legislation for any damages they incur as a result of utilizing products and/or services.⁵ Business actors are responsible for consumer losses according to the Consumer Protection Law, whether arising from errors, negligence, or as a result of the use of traded services. However, in the air transportation sector, In addition to international regulations on air travel, Law Number 1 of 2009 regulating Air travel makes particular

¹ Mega Waty, "Perlindungan Hukum Terhadap Konsumen Penerbangan Di Indonesia," *Jurnal Agasan Hukum* 2, no. 1 (2020): 45.

² Mangara Pasaribu, "Perlindungan Hukum Terhadap Penumpang Dan Barang Milik Penumpang dalam Jasa Pengangkutan Udara," *Mercatoria* 9, no. 1 (2016): 53.

³ Peraturan Presiden Nomor 49 Tahun 2024 tentang Strategi Nasional Perlindungan Konsumen.

⁴ Sonia Regina Hutapea, Janus Sidabalok, and Samosir Kosman, "Perlindungan Hukum Terhadap Konsumen Dalam Pengiriman Barang Melalui Perusahaan Jasa Pengiriman Barang," *Jurnal Profile Hukum* 1, no. 1 (2023): 51.

⁵ Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen

preparations that specifically regulate the obligations of air carriers to passengers and luggage.⁶

The basic principle of aviation law is limited liability. This means that the liability of the airline is limited only to the specific conditions, types of goods, and limits set forth in the aviation laws and regulations.⁷ Whatever the principle of liability used in the transportation industry, the principle of "limitation of liability" is always accompanied, which means that the liability of an air carrier company is limited to the amount stipulated in Law Number 1 of 2009.⁸ In practice, these provisions often give rise to differences in interpretation with the principle of consumer protection which tends to provide customers more safety.⁹ The extent to which the Consumer Protection Law may be used in air transportation issues that already have their own sectoral procedures thus becomes a matter.

This problem becomes even more complex when consumer disputes in the aviation sector are resolved through the Consumer Dispute Settlement Agency (Badan Penyelesaian Sengketa Konsumen/BPSK), a non-judicial dispute resolution institution established under the Consumer Protection Law. BPSK in practice uses a more general consumer protection approach in assessing the responsibilities of business actors. The courts allow for more formal settlement procedures, while BPSK allows for relatively fast, cheap, and easy settlement for consumers.¹⁰ Meanwhile, the aviation sector has its own characteristics because it has been specifically regulated through national aviation laws and international air transportation provisions. This condition ultimately causes a clash between the application of consumer protection provisions and special provisions in aviation law.¹¹

Despite the existence of both the Consumer Protection Law and the Aviation Law, the relationship between these two legal regimes remains insufficiently harmonized.¹² The absence of clear regulatory integration has resulted in overlapping legal norms, uncertainty regarding the jurisdiction of

⁶ Undang-Undang Nomor 1 Tahun 2009 Tentang Penerbangan.

⁷ Antoni Ludfi Arifin, "Urgensi Perlindungan Konsumen Dalam Industri Airline Di Era Globalisasi Dan Mobilitas Tinggi," *Jurnal Ekonomi Bisnis* 31, no. 2 (2025): 89.

⁸ Sazpah Wahana and Wantu Fence, "Tanggung Jawab Korporasi Boeing Company Atas Kelangkaan Pesawat Di Wilayah Indonesia," *Gorontalo Law Review* 3, no. 1 (2020): 79.

⁹ Dedy Fahrizal, Darwis Anatami, and Siti Nurkhotijah, "Analisis Yuridis Tanggung Jawab Pelaku Usaha Terhadap Konsumen Akibat Keterlambatan Penerbangan," *Jurnal Ilmiah Hukum Dan Hak Asasi Manusia (JIHHAM)* 2, no. 1 (2022): 17.

¹⁰ Hani Riadho Nasution and Harris Abd, "Kedudukan Konsumen Dalam Hubungan Hukum dengan Pelaku Usaha Di Indonesia," *Locus Journal of Academic Literature Review* 4, no. 6 (2025): 470.

¹¹ Wahid Yaurwarin and Dominggus Jacobus Siwabessy, "Perlindungan Hukum Terhadap Pengguna Jasa Angkutan Udara Akibat Keterlambatan Penerbangan," *Public Policy (Jurnal Aplikasi Kebijakan Publik & Bisnis)* 4, no. 2 (2023): 313.

¹² Nadila Fitrianda, "Tanggung Jawab Maskapai Penerbangan PT. Lion Mentari Airlines Atas Kerusakan Bagasi Penumpang," *Jurnal Fatwa Hukum* 8, no. 2 (2025): 15.

the Consumer Dispute Settlement Agency (BPSK), and inconsistent legal interpretations in resolving air transport disputes. This regulatory gap has created legal uncertainty regarding the applicable legal framework, particularly in determining whether disputes should be resolved under general consumer protection principles or the sector-specific provisions of aviation law. Consequently, legal reconstruction is necessary to establish a harmonized dispute resolution framework that ensures legal certainty, regulatory consistency, and effective consumer protection in the aviation sector.¹³

Decision Number 649 K/Pdt.Sus-BPSK/2016 of the Supreme Court between Leo Mualdy Christoffel and Qatar Airways Q.C.S.C. makes clear the conflict of arrangement. This case is a continuation of a consumer dispute that was previously decided by the Jakarta Provincial Consumer Dispute Resolution Agency through Decision No. 006/A/BPSK-DKI/XII/2015, dated December 10, 2015 and then objected to at the cassation level. The dispute stemmed from the loss of money and personal belongings belonging to consumers on international flights operated by Qatar Airways. The consumer then filed a lawsuit against the airline on the grounds that the business actor was responsible for the passenger's losses during the flight.¹⁴

Numerous earlier investigations have looked at consumer protection and airline liability from different perspectives.¹⁵ Research by Mega Waty entitled "Legal Protection of Aviation Consumers in Indonesia" revealed that the aviation industry's consumer protection implementation is still subpar, especially related to compensation for loss of goods, damages, and flight delays.¹⁶ Furthermore, a study by Felix Pranoto and Ariawan entitled "Airline Negligence Liability for Compensation Under Law No. 8 of 1999 Concerning Protection of Consumers" focuses on the liability of airlines under the law protecting consumers in fulfilling the rights of aggrieved passengers. In addition, a study by Viola Monica and Ahmad Sudiro entitled "Protection of Airline Business Actors' Rights in Compliance with Consumer Protection Law Number 8 of 1999" examines the responsibilities of airlines based on the Aviation Law and the Consumer Protection Law and examines BPSK-DKI/XII/2015 Decision Number 006/A concerning customer-airline disputes.

¹³ Sri Wahyuni, Efa Laela Fakhriah, Anita Afriana, and Sonyendah Retnaningsih, "Jurisprudential Analysis of BPSK Cancellation Related to Credit Agreements in Indonesia," *ICEHHA 2021: Prosiding Konferensi Internasional Pertama Tentang Pendidikan, Humaniora, Kesehatan Dan Pertanian* (2021): 9.

¹⁴ Putusan Mahkamah Agung Nomor 649 K/Pdt.Sus-BPSK/2016.

¹⁵ Dwi Rahayu, Dendy Djumadil Akhir, Tri Oktiadi Umbara, Amri Destriani Hasnan, Rezi Niti Utami, and Jauhari, "Perlindungan Konsumen Bagi Penundaan (Delay) Dalam Penerbangan," *Consensus: Jurnal Ilmu Hukum* 2, no. 2 (2023): 67.

¹⁶ Dimas Bagus Hari Mahardika, "Perlindungan Konsumen Terkait Dengan Jadwal Penerbangan Tidak Efektif PT. Citilink JOG Adisutjipto," *Jurnal Flight Attendant Kedirgantaraan* 4, no. 1 (2022): 75.

Although previous studies have discussed consumer protection and airline liability from different perspectives, they primarily focus on the implementation of consumer rights or the liability of air carriers. Limited attention has been given to the regulatory conflict between the Consumer Protection Law and the Aviation Law, particularly through the analysis of the ratio decidendi of Supreme Court Decision Number 649 K/Pdt.Sus-BPSK/2016 as the basis for developing a harmonized dispute resolution model. Therefore, this study seeks to fill this legal research gap by proposing a legal reconstruction that integrates both legal regimes in resolving air transport consumer disputes.

Given this issue, the research is important because it relates to the need for legal certainty in the settlement of consumer rescue in the air transportation sector. This research is anticipated to produce an academic contribution to the development of sectoral consumer protection law as well as a consideration in the formation of regulatory harmonization between the Consumer Protection Law and aviation law in Indonesia.¹⁷ This study aims to analyze the ratio decidendi of Supreme Court Decision Number 649 K/Pdt.Sus-BPSK/2016 concerning airline liability for the loss of passenger belongings from the perspective of the Consumer Protection Law and the Aviation Law. Furthermore, this study aims to formulate a legal reconstruction model through the harmonization of these two legal regimes in order to ensure legal certainty and consistency in resolving consumer disputes in the air transportation sector.

B. RESEARCH METHODS

This study employs a normative legal research method because the legal issue under examination concerns the conflict of norms between consumer protection law and aviation law in resolving air transport consumer disputes. Legal materials were collected through library research by examining legislation, court decisions, legal literature, journal articles, and other authoritative legal documents relevant to the research topic. The research applies statutory, case, and conceptual approaches. The statutory approach is used to examine the relationship between Law Number 8 of 1999 concerning Consumer Protection and Law Number 1 of 2009 concerning Aviation. The case approach analyzes Supreme Court Decision Number 649 K/Pdt.Sus-BPSK/2016 to identify the Court's ratio decidendi regarding airline liability and the authority to resolve consumer disputes. The conceptual approach is employed to formulate a harmonization model between consumer protection law and

¹⁷ Ahmad Wahidi, Musataklima, and Nur Jannani, "The Authority of Badan Penyelesaian Sengketa Konsumen (BPSK) and Tribunal Tuntutan Pengguna Malaysia (TTPM) in Consumer Dispute Resolution," *Jurnal Penelitian Hukum De Jure* 23, no. 1 (2023): 95.

aviation law in resolving air transport consumer disputes. Primary legal materials consist of legislation, court decisions, and other binding legal instruments relevant to consumer protection and aviation law. Secondary legal materials include legal textbooks, journal articles, and scholarly opinions. Tertiary legal materials consist of legal dictionaries, legal encyclopedias, and other reference materials used to support the understanding of legal concepts and terminology. The collected legal materials are analyzed qualitatively through legal interpretation and systematic legal analysis to examine the ratio decidendi of Supreme Court Decision Number 649 K/Pdt.Sus-BPSK/2016 and to formulate a harmonization model between consumer protection law and aviation law in resolving air transport consumer disputes.

C. DISCUSSION

1. Legal Status of Airlines' Liability for Loss of Passengers' Baggage from Consumer Protection

This section addresses the first research question concerning the legal status of airline liability for the loss of passengers' baggage from the perspective of consumer protection. The analysis aims to determine the extent to which consumer protection principles apply within the aviation sector, which is governed by a specific legal framework under aviation law.¹⁸ Consumer protection was basically born as a form of state intervention to create a balanced legal relationship between businesses and consumers that is healthy, moral, and sustainable.¹⁹ In modern business relations practices, consumers are often in a weaker position than business actors, in terms of knowledge, financial resources, and availability of legal safeguards.²⁰ Therefore, the Consumer Protection Act was created to defend consumer rights, including the ability to safety, convenience, security, and the entitlement to be replaced if goods or services are damaged as a result.

In the air transport sector, the legal relationship between airlines and passengers was born from an air transport agreement.²¹ Through the agreement, passengers are obliged to pay transportation costs, while airlines are obliged to provide flight services that are safe, comfortable, and in

¹⁸ Sazpah Wahana and Wantu Fence, "Tanggung Jawab Korporasi Boeing Company Atas Kelakaan Pesawat Di Wilayah Indonesia," *Gorontalo Law Review* 3, no. 1 (2020): 83.

¹⁹ Fiorenza Adelia Dome, Khairunnisa, Miranda, Muhammad Aditya Osyra, Muhammad Ainur Ridho, and Helfira Citra, "Perlindungan Konsumen Dalam Hukum Bisnis," *Jurnal Kajian Hukum Dan Kebijakan Publik* 3, no. 1 (2025): 395.

²⁰ Zevia Tristania Budi and Nakzim Khalid Siddiq, "Tanggung Jawab Pengangkut Udara Terhadap Penumpang Atas Reschedule Keberangkatan Pesawat Secara Sepihak," *Commerce Law* 5, no. 2 (2025): 490.

²¹ Baiq Setiani, "Tanggung Jawab Maskapai Penerbangan Sebagai Penyedia Jasa Penerbangan Kepada Penumpang Akibat Keterlambatan Penerbangan," *Jurnal Ilmu Hukum Novelty* 7, no. 1 (2016): 23.

accordance with aviation safety standards.²² The relationship is not only contractual, but also contains a consumer protection dimension because aviation services are directly related to safety and the public interest. However, the aviation sector has different characteristics from the service sector in general. The aviation industry is a high-risk sector that is subject to national and international safety standards. Therefore, aviation law establishes a separate liability regime that does not fully affirm the principle of absolute liability for all losses suffered by passengers.²³

In aviation law, there are special regulations regarding the type of goods that are the responsibility of the airline, the maximum limit of compensation, and exceptions for certain items that are in the personal control of passengers.²⁴ Cash, valuables, and certain personal goods are in principle included in the category of goods that must be under the direct supervision of passengers. Thus, if there is a loss of goods that are legally in the personal possession of the passenger, the liability of the airline becomes limited.²⁵ This requirement demonstrates how the Protection of Consumers Law is applied in the field of aviation cannot be carried out in absolute as in ordinary consumer relations. Consumer protection remains in place, but it must be placed within a sectoral legal framework that already has specific arrangements regarding the liability of air carriers. It is in this context that the *lex specialis derogat legi generali* principle acquires its relevance.²⁶

The idea that *lex specialis derogat legi generali* states that general law provisions are contained in special legal provisions. In air transportation disputes, aviation law is a special legal regime that regulates specifically the legal relationship of air transportation, the type of carrier's liability, the limit of compensation, and the exclusion of liability for certain goods.²⁷ Therefore,

²² Dimas Bagus Hari Mahardika, "Perlindungan Konsumen Terkait Dengan Jadwal Penerbangan Tidak Efektif PT. Citilink JOG Adisutjipto," *Jurnal Flight Attendant Kedirgantaraan* 4, no. 1 (2022): 76.

²³ Antoni Ludfi Arifin, "Urgensi Perlindungan Konsumen Dalam Industri Airline Di Era Globalisasi Dan Mobilitas Tinggi," *Jurnal Ekonomi Bisnis* 31, no. 2 (2025): 87.

²⁴ Viola Monica, "Perlindungan Hak Bagi Pelaku Usaha Maskapai Penerbangan Sesuai Dengan Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen (Studi Kasus Putusan Pengadilan Negeri No. 10/Pdt.Sus-BPSK/2016/PN.Jkt.Br. Jo. Putusan BPSK No. 006/A/BPSK-D/1/XII/2015)," *Jurnal Hukum Adigama* 4, no. 1 (2021): 397.

²⁵ Ni Made Risma Damayanthi, Si Ngurah Ardhya, and I Gusti Ayu Apsari Hadi, "Perlindungan Konsumen Atas Ganti Kerugian Terkait Pembatalan Dan Kompensasi Keterlambatan Pengangkutan Penumpang Maskapai Penerbangan," *Bhirawa Law Journal* 6, no. 2 (2025): 174.

²⁶ Felix Pranoto, "Tanggung Jawab Ganti Kerugian Akibat Kelalaian Maskapai Penerbangan Berdasarkan Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen (Studi Terhadap Putusan No. 433/Pdt.G/2019/PN.Jkt.Pst)," *Jurnal Hukum Adigama* 4, no. 2 (2021): 825.

²⁷ Joy Celine and Amad Sudiro, "Analisis Tanggung Jawab Hukum Perusahaan Maskapai Yang Melakukan Pembatalan Penerbangan Sepihak Terhadap Konsumen," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 5, no. 1 (2024): 479.

consumer dispute resolution in the aviation sector cannot solely use a general consumer protection approach without taking into account specific provisions in aviation law.

The normative relationship between consumer protection law and aviation law should be interpreted systematically rather than separately. Law Number 8 of 1999 concerning Consumer Protection establishes the fundamental rights of consumers, including the right to safety, security, comfort, and compensation for losses arising from the use of goods or services.²⁸ Meanwhile, Law Number 1 of 2009 concerning Aviation specifically regulates the obligations and liability of air carriers, including the scope of compensation for passengers and baggage. Therefore, the application of consumer protection principles in the aviation sector should not disregard the sector-specific liability regime established under aviation law. Instead, both legal frameworks should be interpreted harmoniously to ensure legal certainty while maintaining effective protection of consumer rights.

The problem that has arisen so far is that there is no clear integration between the provisions in the Consumer Protection Law and aviation regulations. As a result, there are often differences in interpretation between consumer dispute resolution institutions, business actors, and courts in determining the limits of airline liability for consumer losses.²⁹ This condition ultimately causes a disharmonization of norms and legal uncertainty in the practice of resolving consumer disputes in the air transportation sector.³⁰ Thus, consumer protection in the aviation sector is essentially sectoral in nature. Consumer protection cannot be understood as a stand-alone regime without taking into account the specific characteristics of a particular business sector. Therefore, the relationship between the Consumer Protection Act and aviation law should be understood as a complementary relationship, not mutually negotiable. The foundation for protecting consumer rights is still the Consumer Protection Law, while aviation law becomes a specialized regime that determines the limits and scope of liability of airlines.³¹

From the author's perspective, the legal uncertainty surrounding airline liability arises not from the absence of consumer protection norms, but from

²⁸ Urša Jeretina and Alan Uzelac, "Alternative Dispute Resolution for Consumer Cases: Are Divergences an Obstacle to Effective Access to Justice," *International Public Administration Review* 12, no. 4 (2014): 469.

²⁹ Naomi Creutzfeldt, "How Important Is Procedural Justice for Consumer Dispute Resolution? A Case Study of an Ombudsman Model for European Consumers," *Journal of Consumer Policy* 37, no. 4 (2014): 529.

³⁰ Zevia Tristania Budi and Nakzim Khalid Siddiq, "Tanggung Jawab Pengangkut Udara Terhadap Penumpang Atas Reschedule Keberangkatan Pesawat Secara Sepihak," *Commerce Law* 5, no. 2 (2025): 490.

³¹ Nadila Fitrianda, "Tanggung Jawab Maskapai Penerbangan PT. Lion Mentari Airlines Atas Kerusakan Bagasi Penumpang," *Jurnal Fatwa Hukum* 8, no. 2 (2025): 18.

the lack of regulatory integration between consumer protection law and aviation law. Both legal regimes pursue the protection of consumers; however, they adopt different mechanisms and standards of liability. Consequently, disputes concerning lost passenger belongings often generate differing interpretations among dispute resolution institutions. This condition demonstrates the necessity of a harmonized legal framework capable of accommodating consumer interests while respecting the specific characteristics of the aviation industry.

2. Ratio Decidendi of the Supreme Court in Decision Number 649K/Pdt.Sus-BPSK/2016

2
This section addresses the second research question concerning the ratio decidendi of the Supreme Court in Decision Number 649 K/Pdt.Sus-BPSK/2016 and its implications for the relationship between consumer protection law and aviation law. The analysis focuses on the legal reasoning adopted by the Supreme Court in determining airline liability and the authority of the Consumer Dispute Settlement Agency (Badan Penyelesaian Sengketa Konsumen/BPSK) in resolving consumer disputes in the aviation sector. This case stemmed from the loss of money and personal belongings belonging to consumers on international flights operated by Qatar Airways. For these losses, consumers submitted a dispute to the Jakarta Consumer Dispute Resolution Agency (BPSK). By virtue of BPSK-DKI/XII/2015 Decision No. 006/A, basically granted some of the consumers' demands by stipulating a division of responsibility of fifty percent to each party and punishing the airline to pay part of the consumer's losses along with legal service fees. The decision was then objected to by Qatar Airways up to the cassation level. The airline argued that BPSK's decision did not have an adequate legal basis and ignored the provisions of aviation law that regulate the limitation of the airline's liability to passengers' luggage.

In its consideration, the Supreme Court ruled that the BPSK decision did not provide a clear normative basis that explained why there was a five-tenth percent difference in responsibility between consumers and business actors. It is impossible to determine who is responsible for thinking about consumers only based on considerations of general fairness without clear and normatively accountable legal evidence. These considerations are the core ratio decidendi of the Supreme Court. According to the Supreme Court, every decision of a dispute resolution institution must be based on a clear legal construction in order to create legal certainty. When BPSK determines the division of responsibility without explaining the legal provisions on which it is based, the decision is considered not to meet the standards of adequate legal consideration. In addition, in civil evidentiary law, the settlement of the court has complete and binding evidentiary force (*volledig en bindende*

bewijskracht). Therefore, The Supreme Court's ratio decidendi in ²Decision Number 649 K/Pdt.Sus-BPSK/2016 is not only positioned as a settlement of individual disputes, but also as a guideline for the interpretation Understanding how aviation law and consumer protection law interact as a special legal regime (*lex specialis*).³²

The Supreme Court's legal reasoning is consistent with the principle of legal certainty, which requires every judicial decision to be based on applicable legal norms and sufficient legal reasoning. This principle is also reflected in Law Number 48 of 2009 concerning Judicial Power, which requires judges to examine, adjudicate, and decide cases based on law and justice while providing adequate legal considerations in every judgment. Consequently, dispute resolution institutions such as BPSK are also expected to formulate decisions that clearly identify the applicable legal provisions and demonstrate the legal basis supporting their conclusions.

In addition, the Supreme Court also affirmed that the aviation sector has special arrangements regarding the carrier's responsibility for passenger luggage. In aviation law, the airline's liability for goods that are under the passenger's personal control is limited. Cash and certain personal items are not, in principle, the object of the airline's absolute responsibility if they are not recorded as baggage or remain under the passenger's own supervision. These considerations show the practical application of ²⁶The *lex specialis derogat legi generali* principle in resolving consumer disputes in the aviation sector. The Supreme Court indirectly affirmed that Without considering aviation law as a special legal regime, the Consumer Protection Act cannot be applied absolutely.

This legal interpretation is also consistent with ⁸Law Number 1 of 2009 concerning Aviation, which establishes a specific liability regime for air carriers, including limitations on compensation and the scope of carrier responsibility for passenger baggage. Therefore, the application of general consumer protection principles under Law Number 8 of 1999 should be interpreted systematically with the Aviation Law to avoid conflicting legal interpretations and to maintain legal certainty in resolving disputes arising from air transportation services.

The author argues that the ratio decidendi adopted by the Supreme Court reflects an effort to maintain legal certainty in the settlement of consumer disputes within the aviation sector. By requiring BPSK decisions to be supported by a clear normative basis, the Court emphasized that consumer protection cannot be implemented solely on considerations of fairness without reference to the applicable legal framework. This approach is important

²⁷ M. Yahya Harahap, *Hukum Acara Perdata*, 12th ed., (Jakarta: Sinar Grafika, 2017), 98.

because legal certainty constitutes one of the fundamental objectives of law, particularly in sectors that are already governed by specific regulatory regimes.

Furthermore, the Supreme Court's reasoning demonstrates that the relationship between consumer protection law and aviation law should not be viewed as a conflict between two competing legal regimes. Instead, both legal frameworks should be interpreted systematically. Consumer protection law remains relevant in safeguarding passenger rights, while aviation law provides specific standards concerning the scope and limitation of airline liability. Therefore, the application of the *lex specialis derogat legi generali* principle in this case should be understood not as excluding consumer protection, but as ensuring that consumer rights are protected within the regulatory structure specifically designed for air transportation activities.

3. Harmonization of Consumer Protection Law and Aviation Law in the Resolution of Air Transportation Disputes

This section addresses the third research question concerning the harmonization of consumer protection law and aviation law in resolving air transportation disputes. The discussion examines the normative basis for harmonization and proposes a legal model capable of integrating consumer protection principles with the sector-specific liability regime governing the aviation industry. The need for harmonization between consumer protection law and aviation law is becoming increasingly important as consumer disputes in the air transport sector increase.³³ Harmonization is needed to create legal certainty, uniformity of interpretation, and a balance between consumer protection and the interests of the aviation industry.³⁴ Essentially, consumer protection and aviation law serve equally important purposes. Consumer protection aims to protect the rights of passengers as service users so that their rights are still fulfilled, while aviation law aims to maintain safety, operational certainty, and stability of the aviation industry.³⁵ Therefore, the relationship between the two regimes should not be positioned as contradictory, but rather as a complementary relationship.³⁶ This research offers a model of legal harmonization through a sectoral consumer liability

³³ Eka Nurhidayati and Hanung Widjangkoro, "Analisis Yuridis Tanggung Jawab Maskapai Lion Air Terhadap Kerugian Konsumen Akibat Keterlambatan Penerbangan (Delay) Berulang," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 3 (2026): 6679.

³⁴ Gunawan Widjaja and Hotmaria Hertawaty Sijabat, "Harmonisasi Regulasi Dalam Pengembangan Hukum Ekonomi Nasional: Upaya Mewujudkan Kepastian Hukum Dan Pertumbuhan Ekonomi Inklusif Berdasarkan Nilai-Nilai Pancasila Dan UUD 1945," *Jurnal Salome: Multidisipliner Keilmuan* 3, no. 4 (2025): 509.

³⁵ Jabalnur, "Konsep Perlindungan Konsumen Terhadap Pengguna Jasa Penyeberangan Pincara," *IN RIGHT: Jurnal Agama Dan Hak Asasi Manusia* 11, no. 2 (2022): 238.

³⁶ Arif Mubarak, Bambang Tjatur Iswanto, Puji Sulistyaningsih, Dyah Adriantini Sintha, and Dewi, "Tanggung Jawab Maskapai Penerbangan Terhadap Refund Tiket Pesawat Dalam Bentuk Voucher Akibat Covid-19," *Borobudur Law and Society Journal* 1, no. 4 (2022): 41.

approach. This concept places the responsibility of ²⁵business actors towards consumers based on the characteristics of sectoral risks and the specific legal regime that governs them. With this approach, consumer protection is not positioned as an absolute regime for the entire service sector, but as a complementary regime that must be integrated with sectoral law.³⁷

In a broader context, legal harmonization should also be directed at the establishment of a sectoral consumer protection concept. This concept places consumer protection based on the characteristics of each business sector, so that not all sectors are treated with the same responsibility approach.³⁸ Therefore, the purpose of legal harmonization is not to cover consumer protection; rather, it aims to balance consumer needs with the characteristics of a particular business sector.

This study's innovation is found in the development of the concept of sectoral consumer liability. This stems from the idea that due to the different legal and risk regimes in each sector, the responsibility of business actors to consumers cannot be equalized for all sectors. So far, consumer protection tends to be understood as a general legal regime that is applied uniformly to all relationships ²⁵between business actors and consumers. In fact, the development of the modern service sector shows that many sectors already have special responsibility systems, such as aviation, banking, healthcare, fintech, and digital transportation. In the aviation sector, the responsibility of business actors cannot be applied in absolute terms as consumer relations in the general trade sector.³⁹ The aviation industry has international safety standards, high operational risks, and liability arrangements that have been specifically limited in national and international aviation laws.⁴⁰

D. Conclusion

This study concludes that airline liability for the loss of passengers' belongings cannot be determined solely ¹⁷based on the general principles of consumer protection law. Although ¹⁵consumer protection law guarantees consumers' rights to legal protection and compensation, airline liability in air transportation disputes must be assessed within the framework of aviation law as the sector-specific legal regime governing air carriage. The analysis of

³⁷ Switly, "Aspek Juridis Pembatalan Penerbangan Secara Sepihak Oleh Pihak Penyedia Jasa Penerbangan Menurut Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen," *Lex Et Societatis* 7, no. 1 (2019): 68.

³⁸ Indah Sari, "Keunggulan Arbitrase Sebagai Forum Penyelesaian Sengketa Di Luar Pengadilan," *Jurnal Ilmiah Hukum Dirgantara* 9, no. 2 (2019): 203.

³⁹ Muhammad Rozak Surya Saputra, Ma'ruf Akib, Andi Muhammad Jafar, and Wahyudi Umar, "Tanggung Jawab Hukum Maskapai Penerbangan Terhadap Kehilangan Dan Kerusakan Barang Bagasi Penumpang," *Amnesti: Jurnal Hukum* 7, no. 1 (2025): 55.

⁴⁰ Wayacita Joan Wuisang, Engeli Yuliana Lumaing, and Reynold Simandjuntak, "Perlindungan Hukum Bagi Konsumen Jasa Penerbangan Dalam Kepailitan Perusahaan," *Constituendum* 1, no. 1 (2021): 69.

Supreme Court Decision Number 649 K/Pdt.Sus-BPSK/2016 demonstrates that the Supreme Court applies the principle of *lex specialis derogat legi generali* by positioning aviation law as the primary legal basis for determining airline liability and emphasizing that dispute resolution must be supported by a clear normative foundation to ensure legal certainty. Furthermore, this study finds that the lack of harmonization between consumer protection law and aviation law has contributed to inconsistent legal interpretations and legal uncertainty in resolving aviation consumer disputes. Theoretically, this research contributes to the development of the concept of sectoral consumer protection by proposing a sectoral consumer liability approach that integrates general consumer protection principles with sector-specific legal regimes. Practically, the proposed harmonization model is expected to strengthen legal certainty, improve consistency in dispute resolution, and provide clearer guidance for courts, the Consumer Dispute Settlement Agency (Badan Penyelesaian Sengketa Konsumen/BPSK), airlines, and consumers. Therefore, this study recommends harmonizing consumer protection law and aviation law through clearer regulations on the scope and limits of airline liability while encouraging dispute resolution institutions and law enforcement authorities to consistently apply a sectoral legal approach to achieve legal certainty, justice, effective consumer protection, and a balanced allocation of rights and obligations between consumers and air carriers.

BIBLIOGRAPHY

Journals:

- Arifin, Antoni Ludfi. "Urgensi Perlindungan Konsumen Dalam Industri Airline Di Era Globalisasi Dan Mobilitas Tinggi." *Jurnal Ekonomi Bisnis* 31, no. 2 (2025): 85-99.
- Bagus Hari Mahardika, Dimas. "Perlindungan Konsumen Terkait Dengan Jadwal Penerbangan Tidak Efektif PT. Citilink JOG Adisutjipto." *Jurnal Flight Attendant Kedirgantaraan* 4, no. 1 (2022): 75-81.
- Budi, Zevia Tristania, and Nakzim Khalid Siddiq. "Tanggung Jawab Pengangkut Udara Terhadap Penumpang Atas Reschedule Keberangkatan Pesawat Secara Sepihak." *Commerce Law* 5, no. 2 (2025): 489-496.
- Celine, Joy, and Amad Sudiro. "Analisis Tanggung Jawab Hukum Perusahaan Maskapai Yang Melakukan Pembatalan Penerbangan Sepihak Terhadap Konsumen." *Jurnal Ilmu Hukum, Humaniora Dan Politik* 5, no. 1 (2024): 478-483.

- Creutzfeldt, Naomi. "How Important Is Procedural Justice for Consumer Dispute Resolution? A Case Study of an Ombudsman Model for European Consumers." *Journal of Consumer Policy* 37, no. 4 (2014): 527-546.
- Dome, Fiorenza Adelia, Khairunnisa, Miranda, Muhammad Aditya Osyra, Muhammad Ainur Ridho, and Helfira Citra. "Perlindungan Konsumen Dalam Hukum Bisnis." *Jurnal Kajian Hukum Dan Kebijakan Publik* 3, no. 1 (2025): 394-400.
- Fahrizal, Dedy, Darwis Anatami, and Siti Nurkhotijah. "Analisis Yuridis Tanggung Jawab Pelaku Usaha Terhadap Konsumen Akibat Keterlambatan Penerbangan." *Jurnal Ilmiah Hukum Dan Hak Asasi Manusia (JIHAM)* 2, no. 1 (2022): 15-27.
- Fitrianda, Nadila. "Tanggung Jawab Maskapai Penerbangan PT. Lion Mentari Airlines Atas Kerusakan Bagasi Penumpang." *Jurnal Fatwa Hukum* 8, no. 2 (2025): 15-26.
- Hani Riadho, Nasution, and Harris Abd. "Kedudukan Konsumen Dalam Hubungan Hukum dengan Pelaku Usaha Di Indonesia." *Locus Journal of Academic Literature Review* 4, no. 6 (2025): 470-484.
- Hutapea, Sonia Regina, Janus Sidabalok, and Samosir Kosman. "Perlindungan Hukum Terhadap Konsumen Dalam Pengiriman Barang Melalui Perusahaan Jasa Pengiriman Barang." *Jurnal Profile Hukum* 1, no. 1 (2023): 51-60.
- Jabalnur. "Konsep Perlindungan Konsumen Terhadap Pengguna Jasa Penyeberangan Pincara." *IN RIGHT: Jurnal Agama Dan Hak Azazi Manusia* 11, no. 2 (2022): 231-250.
- Jeretina, Urša, and Alan Uzelac. "Alternative Dispute Resolution for Consumer Cases: Are Divergences an Obstacle to Effective Access to Justice." *International Public Administration Review* 12, no. 4 (2014): 47-78.
- Made Risma Damayanthi, Ni, Si Ngurah Ardhya, and I Gusti Ayu Apsari Hadi. "Perlindungan Konsumen Atas Ganti Kerugian Terkait Pembatalan Dan Kompensasi Keterlambatan Pengangkutan Penumpang Maskapai Penerbangan." *Bhirawa Law Journal* 6, no. 2 (2025): 171-178.
- Monica, Viola. "Perlindungan Hak Bagi Pelaku Usaha Maskapai Penerbangan Sesuai Dengan Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen (Studi Kasus Putusan Pengadilan Negeri No. 10/Pdt.Sus-BPSK/2016/PN.Jkt.Brt Jo. Putusan BPSK No. 006/A/BPSK-DKI/XII/2015)." *Jurnal Hukum Adigama* 4, no. 1 (2021): 395-1419.
- Mubarok, Arif, Bambang Tjatur Iswanto, Puji Sulistyaningsih, Dyah Adriantini Sintha, and Dewi. "Tanggung Jawab Maskapai Penerbangan Terhadap Refund Tiket Pesawat Dalam Bentuk Voucher Akibat Covid-19." *Borobudur Law and Society Journal* 1, no. 4 (2022): 39-67.

- Nurhidayati, Eka, and Hanung Widjangkoro. "Analisis Yuridis Tanggung Jawab Maskapai Lion Air Terhadap Kerugian Konsumen Akibat Keterlambatan Penerbangan (Delay) Berulang." *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 3 (2026): 6678-6688.
- Pasaribu, Mangara. "Perlindungan Hukum Terhadap Penumpang Dan Barang Milik Penumpang Dalam Jasa Pengangkutan Udara." *Mercatoria* 9, no. 1 (2016): 35-53.
- Pranoto, Felix. "Tanggung Jawab Ganti Kerugian Akibat Kelalaian Maskapai Penerbangan Berdasarkan Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen (Studi Terhadap Putusan No. 433/Pdt.G/2019/PN.Jkt.Pst)." *Jurnal Hukum Adigama* 4, no. 2 (2021): 824-846.
- Rahayu, Dwi, Dendy Djumadil Akhir, Tri Oktiadi Umbara, Amri Destriani Hasnan, Rezi Niti Utami, and Jauhari. "Perlindungan Konsumen Bagi Penundaan (Delay) Dalam Penerbangan." *Consensus: Jurnal Ilmu Hukum* 2, no. 2 (2023): 65-76.
- Saputra, Muhammad Rozak Surya, Ma'ruf Akib, Andi Muhammad Jafar, and Wahyudi Umar. "Tanggung Jawab Hukum Maskapai Penerbangan Terhadap Kehilangan Dan Kerusakan Barang Bagasi Penumpang." *Amnesti: Jurnal Hukum* 7, no. 1 (2025): 53-77.
- Sari, Indah. "Keunggulan Arbitrase Sebagai Forum Penyelesaian Sengketa Di Luar Pengadilan." *Jurnal Ilmiah Hukum Dirgantara* 9, no. 2 (2019): 200-211.
- Setiani, Baiq. "Tanggung Jawab Maskapai Penerbangan Sebagai Penyedia Jasa Penerbangan Kepada Penumpang Akibat Keterlambatan Penerbangan." *Jurnal Ilmu Hukum Novelty* 7, no. 1 (2016): 15-27.
- Switly. "Aspek Juridis Pembatalan Penerbangan Secara Sepihak Oleh Pihak Penyedia Jasa Penerbangan Menurut Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen." *Lex Et Societatis* 7, no. 1 (2019): 66-78.
- Wahana, Sazpah, and Wantu Fence. "Tanggung Jawab Korporasi Boeing Company Atas Kecelakaan Pesawat Di Wilayah Indonesia." *Gorontalo Law Review* 3, no. 1 (2020): 76-92.
- Wahidi, Ahmad. "The Authority of BPSK and TTPM in Consumer Dispute Resolution." *Jurnal Penelitian Hukum De Jure* 22, no. 4 (2023): 89-90.
- Wahyuni, Sri, Efa Laela Fakhriah, Anita Afriana, and Sonyendah Retnaningsih. "Jurisprudential Analysis of BPSK Cancellation Related to Credit Agreements in Indonesia." *ICEHHA 2021: Prosiding Konferensi Internasional Pertama Tentang Pendidikan, Humaniora, Kesehatan Dan Pertanian* (2021): 3-12.
- Waty, Mega. "Perlindungan Hukum Terhadap Konsumen Penerbangan Di Indonesia." *Jurnal Gagasan Hukum* 2, no. 1 (2020): 21-45.

Widjaja, Gunawan, and Hotmaria Hertawaty Sijabat. "Harmonisasi Regulasi Dalam Pengembangan Hukum Ekonomi Nasional: Upaya Mewujudkan Kepastian Hukum Dan Pertumbuhan Ekonomi Inklusif Berdasarkan Nilai-Nilai Pancasila Dan UUD 1945." *Jurnal Salome: Multidisipliner Keilmuan* 3, no. 4 (2025): 503-513.

Wuisang, Wayacita Joan, Engeli Yuliana Lumaing, and Reynold Simandjuntak. "Perlindungan Hukum Bagi Konsumen Jasa Penerbangan Dalam Kepailitan Perusahaan." *Constituendum* 1, no. 1 (2021).

Yaurwarin, Wahid, and Dominggus Jacobus Siwabessy. "Perlindungan Hukum Terhadap Pengguna Jasa Angkutan Udara Akibat Keterlambatan Penerbangan." *Public Policy (Jurnal Aplikasi Kebijakan Publik & Bisnis)* 4, no. 2 (2023): 313-329.

Books:

Harahap, M. Yahya. *Hukum Acara Perdata*. 12th ed. Jakarta: Sinar Grafika, 2017.

Regulation:

Peraturan Presiden Nomor 49 Tahun 2024 tentang Strategi Nasional Perlindungan Konsumen.

Undang-Undang Nomor 1 Tahun 2009 tentang Penerbangan.

Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen.

Putusan Mahkamah Agung Nomor 649 K/Pdt.Sus-BPSK/2016.

ORIGINALITY REPORT

17%

SIMILARITY INDEX

14%

INTERNET SOURCES

7%

PUBLICATIONS

4%

STUDENT PAPERS

PRIMARY SOURCES

1	rechtsidee.umsida.ac.id	Internet Source	2%
2	jurnal.locusmedia.id	Internet Source	1%
3	Submitted to Royal Australasian College of Physicians	Student Paper	1%
4	Submitted to UPA Perpustakaan UNTIRTA	Student Paper	1%
5	eudl.eu	Internet Source	1%
6	journal.walisongo.ac.id	Internet Source	1%
7	repository.ubharajaya.ac.id	Internet Source	1%
8	journal.pubmedia.id	Internet Source	1%
9	journal.trunojoyo.ac.id	Internet Source	1%
10	I Nyoman Arya Wira Temaja. "FROM THE DINNER TABLE TO THE GREEN TABLE: LEGAL LIABILITY OF BUSINESS ACTORS FOR FOOD POISONING CASES IN INDONESIA: A CONSUMER PROTECTION PERSPECTIVE", Journal of Advance Research in Social Science and Humanities (ISSN 2208-2387), 2026	Publication	<1%
11	ejurnal.ung.ac.id	Internet Source	<1%
12	jurnal-ijgam.or.id	Internet Source	<1%
13	ejournal.uinsaizu.ac.id	Internet Source	<1%
14	www.esd-conference.com		

15 ijmmu.com

Internet Source

<1 %

16 journal.unimma.ac.id

Internet Source

<1 %

17 Aulia Cahyono Putri. "Implementation of the Authority of Consumer Dispute Resolution Agency in Presenting Business Actors With the Assistance of Police Investigators", TATOHI: Jurnal Ilmu Hukum, 2025

Publication

<1 %

18 jurnal.ar-raniry.ac.id

Internet Source

<1 %

19 jurnal.kopusindo.com

Internet Source

<1 %

20 iccms.ifrel.org

Internet Source

<1 %

21 advancesinresearch.id

Internet Source

<1 %

22 journal.umbandung.ac.id

Internet Source

<1 %

23 Submitted to Universitas Prima Indonesia

Student Paper

<1 %

24 journal.um-surabaya.ac.id

Internet Source

<1 %

25 repositori.uma.ac.id

Internet Source

<1 %

26 Gabrielle Marceau, Maria George, Vishakha Raj. "9 Application of the General Rule of Interpretation by the WTO Dispute Settlement System", Cambridge University Press (CUP), 2028

Publication

<1 %

27 journal.unnes.ac.id

Internet Source

<1 %