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CORPORATE CRIMINAL LIABILITY OF INDONESIAN DOMESTIC AIRLINES FOR ARBITRARY FLIGHT CANCELLATIONS AND RESCHEDULING

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ABSTRACT

Arbitrary flight cancellations and rescheduling by Indonesian domestic airlines have so far been addressed almost entirely through private law, leaving the organizational decisions behind them without a consequence capable of changing airline practice. This research aims to analyze, first, the necessity of criminalizing arbitrary flight cancellations and rescheduling by Indonesian domestic airlines and, second, how the offence should be formulated and how the corporate criminal liability framework under the Criminal Code applies to those airlines.

This research is normative legal research. It examines the Aviation Law, the Criminal Code, the Consumer Protection Law, and Minister of Transportation Regulation No. PM 89 of 2015, together with doctrine on criminalization and corporate criminal liability. The analysis is supported by case studies of arbitrary disruptions and by a limited comparison with the European Union and the United Kingdom, and the materials are analyzed qualitatively.

This research concludes that criminalizing arbitrary flight disruptions is necessary, as the conduct satisfies Sudarto's four parameters of criminalization and remains consistent with *ultimum remedium*. Corporate criminal liability can be established through a specific offence of arbitrary flight disruption in the Aviation Law and sanctioned by a fine scaled to the airline's gain and additional penalties.

Keywords: Corporate criminal liability, airlines, arbitrary cancellations, arbitrary rescheduling, flight disruptions, criminalization, *ultimum remedium*.

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PERTANGGUNGJAWABAN PIDANA KORPORASI MASKAPAI PENERBANGAN DOMESTIK INDONESIA ATAS PEMBATALAN DAN PERUBAHAN JADWAL PENERBANGAN SECARA SEWENANG-WENANG

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INTISARI

Pembatalan dan perubahan jadwal penerbangan secara sewenang-wenang oleh maskapai domestik Indonesia selama ini hampir sepenuhnya diselesaikan melalui hukum privat, sehingga keputusan organisasi di baliknya tidak menghadapi konsekuensi yang mampu mengubah praktik maskapai. Penelitian ini bertujuan untuk menganalisis urgensi kriminalisasi pembatalan dan perubahan jadwal secara sewenang-wenang oleh maskapai domestik Indonesia dan bagaimana pertanggungjawaban pidana korporasi dapat dibangun terhadap maskapai tersebut.

Penelitian ini merupakan penelitian hukum normatif. Penelitian ini mengkaji Undang-Undang Penerbangan, Kitab Undang-Undang Hukum Pidana, Undang-Undang Perlindungan Konsumen, dan Peraturan Menteri Perhubungan Nomor PM 89 *Tahun* 2015*, beserta doktrin mengenai kriminalisasi dan pertanggungjawaban pidana korporasi. Analisis didukung oleh studi kasus gangguan penerbangan sewenang-wenang dan perbandingan terbatas dengan Uni Eropa dan Inggris serta bahan hukum dianalisis secara kualitatif.*

Penelitian ini menyimpulkan bahwa kriminalisasi gangguan penerbangan sewenang-wenang diperlukan, karena perbuatan tersebut memenuhi empat parameter kriminalisasi Sudarto dan tetap sejalan dengan asas ultimum remedium. Pertanggungjawaban pidana korporasi dapat dibangun melalui tindak pidana khusus gangguan penerbangan sewenang-wenang dalam Undang-Undang Penerbangan, yang diancam pidana denda yang disesuaikan dengan keuntungan maskapai serta pidana tambahan.

Kata Kunci*: Pertanggungjawaban pidana korporasi, maskapai penerbangan, pembatalan penerbangan, penjadwalan ulang penerbangan, kriminalisasi, ultimum remedium.*

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