
Consumer Protection Over Delays in the Delivery of Goods through Sea Freight Delivery Services Reviewed from Law No. 8 of 1999 on Consumer Protection

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Abstract

Goods delivery services via sea transportation make it easier for people to get goods to consumers at the right time and place. However, the delivery of goods does not always run smoothly, one of which is if there is a delay in delivery which is not in accordance with what was agreed by the company which of course can be detrimental to consumers, therefore consumers are entitled to legal protection when the delivery of goods is delayed.

This research is normative research with a legislative approach that uses secondary data sources in the form of primary legal materials, namely Law Number 8 of 1999 concerning Consumer Protection as well as secondary legal materials obtained from various literature. The data collection method is through library research, then the data analysis method is qualitative, the results of which will be explained descriptively.

Consumer protection for delays in the delivery of goods via sea transportation according to the Consumer Protection Law is regulated in Article 4 letter (h), namely that consumers have the right to receive compensation if the goods/services received do not comply with the agreement. The form of responsibility of business actors towards consumers for delays in the delivery of goods via sea transportation is in accordance with the principle of responsibility based on presumption, namely in the form of compensation as regulated in Article 7 letter (g) of Law Number 8 of 1999 concerning Consumer Protection.

Keywords: *Consumer Protection, Delays, Delivery of Goods, Sea Transportation*

Abstrak

Layanan pengiriman barang melalui transportasi laut memudahkan masyarakat untuk mengantarkan barang ke konsumen pada waktu dan tempat yang tepat. Namun pengiriman barang tidak selalu berjalan lancar, salah satunya jika terjadi keterlambatan pengiriman yang tidak sesuai dengan yang telah disepakati oleh perusahaan yang tentunya dapat merugikan konsumen, oleh karena itu konsumen berhak mendapatkan hak hukum. perlindungan bila pengiriman barang tertunda.

Penelitian ini merupakan penelitian normatif dengan pendekatan perundang-undangan yang menggunakan sumber data sekunder berupa bahan hukum primer yaitu Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen serta bahan hukum sekun-

der yang diperoleh dari berbagai literatur. Metode pengumpulan datanya melalui penelitian kepustakaan, kemudian metode analisis datanya adalah kualitatif yang hasilnya akan dijelaskan secara deskriptif.

Perlindungan konsumen atas keterlambatan penyerahan barang melalui angkutan laut menurut UU Perlindungan Konsumen diatur dalam Pasal 4 huruf (h), yaitu konsumen berhak menerima ganti rugi apabila barang/jasa yang diterima tidak sesuai dengan perjanjian.

Bentuk tanggung jawab pelaku usaha terhadap konsumen atas keterlambatan penyerahan barang melalui angkutan laut sesuai dengan prinsip tanggung jawab berdasarkan praduga, yaitu berupa ganti rugi sebagaimana diatur dalam Pasal 7 huruf (g) Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen.

Kata Kunci: Perlindungan Konsumen, Keterlambatan, Pengiriman Barang, Transportasi Laut

INTRODUCTION

People in this era of globalization and technological progress tend to want quick satisfaction, therefore they will always look for ways to save time. If you are looking for an easy and practical way to send goods, especially between regions, product delivery services may be the best choice.¹ The ever-evolving nature of commercial competitiveness requires ongoing initiatives to get goods to consumers when and where they need them. Using appropriate distribution channels is one approach to achieving this goal. Currently there are many freight forwarding companies to choose from, all competing to provide efficient distribution channels for the public.²

Based on the estimated time of arrival of the goods to the destination, different types of services are offered, so you can choose between services that take a week, a few days or even just one day (express) to complete. However, there is a price associated with using this service and consumers are obliged to pay it. The presence of this goods delivery company helps people's lives due to the time and cost savings it provides. However, there may be problems in the delivery process, such as if the goods do not arrive at their destination at the agreed time.

Consumers who have paid a certain amount of money for goods delivery services and do not get them in a timely manner may feel disadvantaged. Therefore, consumers who experience delays in receiving delivery of goods are entitled to legal protection.³

Consumers must have legal protection to protect their interests as recipients of services. As previously explained, obstacles are often encountered in the process of sending goods, therefore it is important for business people and consumers to make agreements that clearly outline the rights and obligations that must be fulfilled and created by each party. The most common complaint from consumers is delays, especially when approaching holidays and New Year. When a business actor fails to fulfill its obligations, there is a default on the part of the business actor which causes losses to fall on the consumer as a service user.

Delivery problems, especially when goods are delayed, can cause significant material

1 Aisyah Ayu Musyafa, Hardani Widya Khasna, and Bambang Eko Turisno, 'Perlindungan Konsumen Jasa Pengiriman Barang Dalam Hal Terjadi Keterlambatan Pengiriman Barang,' *Jurnal Law Reform* 14.2 (2018), 152.

2 Amri Yanuar and Dewinta Nuring Tyas, 'Analisis Faktor Penyebab Keterlambatan Pengiriman Barang Di PT. KN Sigma Trans Dengan Menggunakan Metode Seven Tools,' *Jurnal Logistik Bisnis* 5.2 (2015), 29.

3 A.A.A. Nadia Andina Putri and Nyoman Mas Ariyani, 'Perlindungan Hukum Terhadap Konsumen Pengguna Jasa Pengiriman Barang Dalam Hal Keterlambatan Sampainya Barang,' *Kertha Semaya: Journal Ilmu Hukum* 5.2 (2017), 2.

or non-material losses for consumers. This is partly due to the limited shelf life or reduced usefulness of the goods sent if the goods are not delivered on time. In this case, business actors owe compensation to consumers as an effort to fulfill their legal obligations to provide compensation for the losses they suffer, as mandated by Article 4 letter (h) of Law Number 8 of 1999 concerning Consumer Protection.

Consumers who experience losses due to delays in product delivery have the right to receive compensation. Researchers are interested in finding out more about the protection provided to consumers using goods delivery services, especially if there is a delay in delivery and the obligations of business actors towards consumers if there is a delay in transporting products via sea transportation. Based on the background that has been described, the author formulates the title "*Consumer Protection for Delays in Delivery of Goods via Sea Transport in View of Law Number 8 of 1999 concerning Consumer Protection*"

RESEARCH METHOD

This type of research is normative research, namely research on legal principles, which are collected in a codification or statutory regulation⁴. The data source used in this research is a secondary data source based on relevant legal provisions, namely Law Number 8 of 1999 concerning Consumer Protection⁵ and the data collection method used is library research.

DISCUSSION

Consumer Protection on Goods Delivery Lateness through Sea Freight Analyzed from Law No. 8 of 1999 on Consumer Protection

According to Muchsin, legal protection can be divided into two, namely, first, Preventive Legal Protection: is legal protection against potential violations provided by the state. Legislation includes provisions to prevent violations and provide warnings or restrictions on the implementation of duties. In this preventive legal protection, legal subjects are given the opportunity to submit objections or opinions before a government decision takes definitive form. The goal is to prevent arguments from arising. Preventive legal protection is very useful for government actions that are based on policy, because this encourages the government to be more careful in making decisions. Indonesian law does not have provisions regarding preventive legal protection. Second, repressive legal protection: if differences of opinion arise or violations occur, the law can provide repressive legal protection in the form of sanctions such as fines, imprisonment and other punishments.

Law Number 8 of 1999 concerning Consumer Protection was created with the aim of protecting the rights and obligations of consumers as well as the rights and obligations of business actors. Rights are legal claims for the protection of private or public interests⁶ Obligations according to Prof. Dr Notonegoro is a burden that must be obeyed in order to provide or carry out actions that should be given by a certain party.⁷

It is important for a company to provide reliable guarantees for the products and

4 Khudzafah Dimiyati and Kelik Wardiono, *Metode Penelitian Hukum* (Surakarta: Universitas Muhammadiyah Surakarta, 2004).

5 Amiruddin and Zainal Asikin, *Pengantar Metode Penelitian Hukum* (Jakarta: Raja Grafindo Persada, 2006).

6 Zainal Asikin, *Hukum Dagang* (Jakarta: Raja Grafindo Persada, 2013).

7 "Pengertian Hak Dan Kewajiban Warga Negara Menurut Ahlinya," Bnp.jambiprov.go.id, n.d.

services it provides to its consumers. To guarantee the protection of people's rights, it is necessary to provide protection to legal subjects in the form of legal instruments, whether preventive or repressive, and both written and unwritten. Based on legal theories, consumers as the injured party are given the right to request compensation from business actors.

One component of consumer law is consumer protection, which can be carried out in several forms, such as providing various ways to defend consumer rights from violations committed by third parties. This shows that consumer law has a much broader scope than just regulations that have a direct relationship with consumers⁹.

In accordance with Law Number 8 of 1999¹⁰ concerning Consumer Protection, legal protection for consumers using expedition companies can be seen in the application of Article 4, Article 5, Article 6 and Article 7. Consumers have the rights as outlined in Article 4 of the Law -Law Number 8 of 1999 concerning Consumer Protection, as follows: The right to choose goods and/or services and obtain said goods and/or services in accordance with the exchange value and conditions and guarantees promised; The right to correct, clear and honest information regarding the conditions and guarantees of goods and/or services; The right to receive compensation, compensation and/or replacement, if the goods and/or services received are not in accordance with the agreement or are not as they should be; etc.

There are three rights which are basic principles, namely:

- a. Rights formulated to prevent consumers from losses, both personal losses and property losses;
- b. The right to obtain goods and/or services at a reasonable price;
- c. The right to obtain appropriate solutions to the problems faced.

Based on the provisions in Article 8 paragraph (1) of Law Number 8 of 1999 concerning Consumer Protection, business actors are prohibited from producing and/or trading goods and/or services that do not comply with the conditions, guarantees, privileges or efficacy as stated in the label, label. or information about the goods and/or services, if the delivery company is proven to have violated these provisions, consumers can do two things, namely:

- a. In the event that consumers are dissatisfied with the services they receive, they have the option to take legal action through the Consumer Dispute Resolution Agency;
- b. In the general justice system, customers who are aggrieved and feel a loss have the option to file a lawsuit to seek compensation.

Article 4 of Law Number 8 of 1999 concerning Consumer Protection regulates consumer rights. Article 4 letter (a) confirms that consumers have the right to comfort, security and safety in consuming goods and/or services. If an item is sent to consumers using expedition services and the item is damaged or lost during transit, this will have a negative impact on the level of comfort they experience.

Article 4 letter (c) emphasizes that consumers have the right to obtain clear and honest information regarding defective and lost shipping goods. Sometimes consumers do not receive correct information and sometimes there is no notification at all from the expedition company. Likewise consumers are placed in an awkward position when they report their shipments lost or damaged. Expedition Companies are slow in servicing

8 Mukti Fajar ND and Yulianto Achmat, *Dualisme Penelitian Hukum Normatif Dan Empiris* (Yogyakarta: Pustaka Pelajar, 2010).

9 Az. Nasution, 'Revolusi Teknologi Dalam Transaksi Bisnis Melalui Internet,' *Jurnal Keadilan* 1 (2001), 28.

10 Pemerintah Republik Indonesia, "Undang-Undang RI Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen," Pub. L. No. 8/1999 (1999).

consumer complaints.

Consumers have the legal right to file a claim for compensation against a business actor if the consumer experiences a loss as a result of the company providing services that are not in line with what was agreed upon. Consumer actions in making compensation claims against business actors are regulated in Article 4 of Law Number 8 of 1999 concerning Consumer Protection which describes the rights obtained by consumers, in letter (h) it is explained that consumers have the right to be given compensation if a service provided is not in accordance with what has been agreed or is not as it should be.

Implementation of Article 4 letter (h) of Law Number 8 of 1999 concerning Consumer Protection in accordance with the provisions where the buyer is entitled to compensation, compensation and/or replacement, if the goods and/or services received do not comply with the agreement or are not as they should be, is basically an effort to provide protection to consumers.

The following is an explanation of consumer rights that can be found in Article 4 of Law Number 8 of 1999¹¹:

- a. Consumers have the right to a sense of safety and security when using the goods they receive, meaning that they must be protected from all forms of physical or mental injury that may arise as a result of using the product. Business actors have a responsibility to ensure that their products do not cause harm to consumers;
- b. The right to choose goods and/or services and obtain said goods and/or services in accordance with the exchange value and conditions and what is promised, what is meant is that consumers have the right to receive compensation in accordance with the goods/services previously agreed upon;
- c. The right to correct, clear and honest information regarding the condition and guarantee of goods and/or services, which is meant regarding the estimated time for goods to reach consumers, monitoring goods with the aim of ensuring work and activities run smoothly (SOP), and consumers can submit claims for goods if the goods are lost;
- d. The right to have their opinions and complaints heard regarding the goods and/or services used, what is meant is hearing if consumers ask about goods and answer honestly about the goods and also receiving complaints from consumers;
- e. The right to obtain appropriate advocacy, protection and efforts to resolve consumer protection issues, as well as insure the goods shipped so that if something goes wrong, the insurance provider will replace them;
- f. The right to receive consumer guidance and education, which means that the business actor will explain the estimated time taken to reach the destination;
- g. The right to be treated or served correctly and honestly and non-discriminatorily, which is meant by treating consumers the same, not differentiating between consumers, namely the goods sent;
- h. The right to receive compensation and/or replacement if the goods and/or services received are not in line with the agreement or are not as they should be, what is meant is if the consumer receives goods that are not in line with their goods, the business actor is responsible and provides compensation for the goods. aligned with the agreement of both parties;
- i. Rights regulated in other statutory provisions.

This delivery agreement is consensus (reciprocal) in which the delivery party binds itself to organize the delivery of goods from and to a certain destination and the consumer (order giver) pays the costs or transportation costs as mutually agreed upon, here it can be

11 Setiawan R, *Pokok-Pokok Perikatan* (Bandung: Putra Bardin, 1999).

seen that both parties have an obligation that must be fulfilled include¹²:

- a. The carrier has an obligation to transport goods or people from one place to another safely;
- b. The sender (transport service user) is obliged to pay the agreed costs and hand over the goods sent to the destination address. At the destination, the goods are handed over to the recipient whose address is listed in the transportation letter as the third party who is also responsible for receiving the goods;
- c. The position of the recipient of the goods is due to an agreement to do something for the recipient of the goods, whether the goods are received as a gift (Article 1317 of the Civil Code).

If the carrier is proven to be at fault for the damage/loss to the goods, the carrier will reimburse the amount of compensation money determined by the regulations stated on the bill of lading. However, if there is no information about the price of the goods at the destination, the carrier will compensate the loss.

Forms of Responsibility of Business Actors towards Consumers Who Experience Delays in Delivery of Goods via Sea Freight Judging from Law Number 8 of 1999 concerning Consumer Protection

According to Ridwan Halim, legal responsibility is a further consequence of the implementation of a role, whether that role is a role of rights and obligations or power. The term legal responsibility refers to a person's obligation to act in accordance with applicable law¹³. In line with what Ridwan Halim said, Purbacakara said that the source of legal responsibility is the use of resources in the actualization of a person's rights and obligations. It is emphasized that every implementation of obligations and every use of rights, whether carried out inadequately or adequately, must basically still be accompanied by accountability, as well as the exercise of power.¹⁴

There is always a degree of risk involved in any type of business dealing, whether the danger is intentional or not. It is important to implement safeguards to prevent risks like this from occurring. Liability exists when two or more parties are bound by law to each other due to rights and obligations. These various responsibilities include:¹⁵

- a. Principle of Responsibility Based on Fault Elements (Fault Liability, Liability Based on Fault Principle)
Both criminal and civil law adhere to the notion of responsibility based on the element of fault. The elements of fault and existing contractual relationships are necessary for a pure negligence-based theory of liability to be maintained.
- b. Principle of Responsibility Based on Presumption (Rebuttable Presumption of Liability Principle)
The responsibility of a business actor, known as default, is a responsibility based on a contract. Thus, when a product is damaged and results in consumer losses, generally the first thing to look at is the contents of the contractual agreement or guarantee which is part of the contract, whether written or oral.

12 Soegijatna Tjakranegara, *Hukum Pengangkutan Barang Dan Penumpang* (Jakarta: Rineka Cipta, 1995).

13 Ridwan Halim, *Hukum Administrasi Negara Dalam Tanya Jawab* (Jakarta: Ghalia Indonesia, 1988).

14 Purbacaraka, *Perihal Kaedah Hukum* (Bandung: Citra Aditya Bakti, 2010).

15 Abdul Halim Barakatullah, *Hukum Perlindungan Konsumen, Kajian Teoritis Dan Perkembangan Pemikiran* (Banjarmasin: Nusamedia, 2008).

c. Principle of Absolute Liability (No-Fault Liability, Absolute or Strict Liability Principle)

The principle of absolute responsibility in consumer protection law is generally used to ensnare business actors, especially goods producers, who market their products to the detriment of consumers.

Business actors must be responsible for any losses resulting from these consequences and must compensate for any losses incurred due to damage to the goods. The form of replacement can be in cash or also by replacing goods according to what has been agreed upon by both parties. Legally, sending goods by a company or forwarder can be qualified as a transportation agreement.¹⁶

The responsibilities carried out by business actors are reflected in the contracts made between the entrepreneurs themselves and consumers. Delays in delivery that must be compensated for are of course delays caused by the employee's negligence. In the event of force majeure, the sender of the goods will not receive any compensation. Negligence on the part of the delivery service personnel is claimed to be negligence.

According to the terms of the contract between the business actor and the consumer, one of the many possible errors in the delivery of goods is if it takes longer than expected to reach the destination. Customers who have paid a certain amount for a service but have not received it due to shipping delays will feel as if they have been cheated. The most common complaint received by consumers is delays. The following are legal measures that consumers must take if there is a problem with late delivery of goods:¹⁷

a. Mediation

If a dispute occurs involving delays in the delivery of goods via sea transportation, a neutral third party, namely the goods delivery service manager, can mediate the situation by contacting the sender and recipient to discuss possible solutions to the problem.

b. Negotiation

To ensure that neither the sender nor the recipient of the product is dissatisfied, the problem of delays will be resolved in negotiations between the disputing parties.

Based on the author's analysis, the following forms of business actor responsibility are regulated in Article 19 of Law Number 8 of 1999 concerning Consumer Protection, namely as follows:

- a. Business actors are responsible for providing compensation for damage, pollution and/or loss to consumers resulting from consuming goods and/or services produced or traded.
- b. Compensation as referred to in paragraph (1) may take the form of a refund or replacement of goods and/or services of the same type or equivalent value, or health care and/or provision of compensation in accordance with the provisions of the applicable laws and regulations.
- c. Compensation is provided within a period of 7 (seven) days after the transaction date.
- d. Providing compensation as intended in paragraph (1) and paragraph (2) does not eliminate the possibility of criminal prosecution based on further evidence regarding the existence of an element of error.

16 Habib Hamed, 'Tanggung Jawab Perusahaan Jasa Ekspedisi Atas Keterlambatan Pengiriman Barang', *Jurnal Ilmiah Mahasiswa Fakultas Hukum* 4. 1 (2021), 5.

17 Pemerintah Republik Indonesia, Undang-Undang RI Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen.

- e. The provisions as intended in paragraph (1) and paragraph (2) do not apply if the business actor can prove that the error is the consumer's fault.

Business actors whose responsibilities are as intended in Article 7 paragraph (g) of Law Number 8 of 1999 concerning Consumer Protection are obliged to carry out these responsibilities in accordance with statutory regulations. A legally binding contract is created between the company and the customer who wishes to use the service for product delivery. Accidents, vehicle difficulties, natural disasters, fires and other similar events are beyond the control of the expedition business and may be responsible for the losses mentioned above. However, the inability of expedition companies to process export commodities is also the cause of these losses.

Based on the article above, it can be interpreted that business actors are obliged to provide compensation for goods received by consumers that do not comply with the agreement, which in this case can only apply to the delivery of goods in the form of food/drinks that do not have a long shelf life such as vegetables and fruit, because if there is a delay in delivery, it can result in damage/rottenness/changes in the quality of the food/drink which is not in accordance with the agreement, so that the food/drink cannot be used properly.

Delivery businesses for goods that do not experience physical changes/condition if there is a delay in delivery cannot be subject to this article, because the focus of this article is "*if the goods received are not in line with the agreement*" so the delay factor is not included in that element.

However, in line with the provisions of Article 477 of the Commercial Code, the carrier can be released from some or all of his responsibilities if he can prove that the losses arising from the destruction, loss or damage to the goods are not the result of an action taken. carried out by the carrier.

If these principles are linked to the description above, then in this case we adhere to the principle of responsibility based on presumption (Rebuttable Presumption of Liability Principle) that the carrier is considered always responsible in accordance with the provisions of Article 41 paragraph (2) of Law Number 17 of 2008 concerning Shipping which states: Liability can arise as a result of ship operations, namely in the form of: a. death or injury to passengers being transported; b. destruction, loss or damage to the goods being transported; c. delays in transportation of passengers and/or goods being transported; or d. third party losses.

In this principle, the carrier is always considered responsible for any losses arising from the transportation it carries out. However, if the carrier can prove that the loss incurred was not his fault, then the carrier can be released from responsibility to pay some or all of the compensation.

CONCLUSION

Based on the research results and author's discussion above, the following conclusions can be drawn:

- a. Consumer protection for delays in the delivery of goods via sea transportation according to the Consumer Protection Law is regulated in Article 4 letter (h), namely that consumers have the right to receive compensation if the goods/services received do not comply with the agreement. (another article)
- b. The form of responsibility of business actors towards consumers for delays in the delivery of goods via sea transportation is in accordance with the principle of responsibility based on presumption, namely that business actors are obliged to pay

compensation according to the agreement between both parties as regulated in Article 7 letter (g) of Law Number 8 of 1999 concerning Consumer Protection.

Based on the conclusions above, the author will provide suggestions that can be conveyed in this research, namely:

- a. The responsibility of the transportation company or expedition company towards consumers must be strictly implemented and accounted for in accordance with Law Number 8 of 1999 concerning Consumer Protection, so that consumers will not be harmed.
- b. Responsibility of goods delivery services as goods delivery organizers must improve service, supervision, accuracy in the process of sorting goods and always provide information to consumers if goods will experience delays in receiving goods so that there are no problems or losses for the recipient of the goods.

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