

## ABSTRACT

This research intends to analyze the extent of liability of carriers and air passengers' rights protection in cases of flight delays. According to Indonesian law, the Article 146 of Law No. 1 of 2009 on Aviation stipulates "technical operational factors" as a condition for exemption of liability, whereas Minister of Transportation Regulation No. PM 89 of 2015 regulates flight delays compensation scheme. The purpose of the study is to compare the interpretation of the term "technical operational factors" with the notion of extraordinary circumstances in Regulation (EC) No. 261/2004 and to examine the proportionality of the compensation scheme according to PM 89 of 2015. The research will be conducted within the framework of normative legal research using statutory and comparative approaches. Legal analysis will be performed qualitatively on the basis of grammatical, systematic and comparative interpretation of statutory, secondary and tertiary sources. It is determined that the term "technical operational factors" in Indonesian law lacks a proper exhaustive definition. The Explanations to Article 146 provide several examples of such factors but do not define them exhaustively, which allows for a broader interpretation of this notion, including ordinary operational risks. In the case of extraordinary circumstances in Regulation (EC) No. 261/2004, the notion is interpreted restrictively through a combination of two tests: the incident cannot be inherent to the ordinary course of the carrier's business, and the situation must be outside of its actual control. Concerning the compensation scheme, the compensation provided in PM 89 of 2015 can be characterized as disproportionate as compared with Regulation (EC) No. 261/2004. Indeed, the regulation provides for a flat rate of compensation of IDR 300,000 for flight delays exceeding four hours irrespective of the flight distance, while the EU compensation framework uses tiered compensation depending on the flight distance and the delay of three hours as a trigger point.

**Keywords:** flight delay, carrier liability, technical operational factors, extraordinary circumstances.