



## Legal Protection for Consumers for Damage to Goods by Sea

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**Abstract:** This study aims to determine Legal Protection for Consumers for Damage to Goods by Sea. The method used in this study is empirical legal research methodology and uses a qualitative approach to descriptive qualitative analysis techniques. The results of this study indicate that legal protection for consumers for damage to goods by sea, there are several things, namely the protection provided by the expedition in the form of responsibility for losses suffered by the consumer. This responsibility is in the form of providing compensation for damaged goods while being transported by our expedition, in this case, PT MAE Cargo Gorontalo. In addition, there are forms of legal protection provided by consumer protection regulations, including those contained in Article 7 letter f of the consumer protection law by imposing business actors to provide compensation and compensation for goods received by consumers in a damaged condition.

**Keywords:** Protection; Consumer; Damage; Goods.

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## 1. Introduction

Every consumer who feels aggrieved by a business actor can complain about his problem to BPSK, either directly, initiated by his attorney or by his heirs. In Article 47 of Law no. 8 of 1999 concerning Consumer Protection, it is stated that the settlement of consumer disputes outside the court, in this case, BPSK is held to reach an agreement regarding the form and amount of compensation for a person regarding certain actions guaranteeing that losses will not occur again or will not repeat losses suffered by consumers. The Consumer Dispute Settlement Agency (BPSK) is a special institution established by each Level II Region for resolving consumer disputes outside the court. Description of the institution and membership, duties and authorities,<sup>1</sup>

Protection of consumers is seen both materially and formally as increasingly very important, given the increasingly rapid pace of science and technology which is the driving force behind the productivity and efficiency of producers of the goods and services they produce to achieve business goals. To pursue and achieve these two things, either directly or indirectly. Consumers are generally the ones who will feel the impact. Thus, providing adequate protection for consumer interests is an important and urgent matter for immediate solutions to be found, especially in Indonesia given the complexity of problems relating to consumer protection. The protection given is basically to realize justice for all people who experience losses in terms of buying and selling.<sup>2</sup>

Development and development of the economy and especially in the field of national trade industry have produced a wide variety of goods/or services that can be consumed. In addition, globalization and free trade supported by advances in telecommunications and information technology have expanded the space for the flow of goods and services transactions across the territory of a country, so that the goods or services offered vary, both foreign and domestic production. . It is undeniable that the role of the workforce in national development is increasing, accompanied by the various challenges and risks it faces.<sup>3</sup>

On the one hand, such conditions have benefits for consumers because consumers need goods and/or services that choose various types and qualities of goods and/or

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<sup>1</sup> Sonya Lorensa Sirait., Nababan, Roida, Martono Anggusti, "Perlindungan Hukum Terhadap Konsumen Yang Mengalami Kerugian Akibat Pengiriman Barang Oleh Perusahaan Ekspedisi Laut Menurut Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen.," *Nommensen Journal Of Legal Opinion*. 2, no. 1 (2021): 12-23., 22

<sup>2</sup> Suwitno Yutye Imran, "The Urgency of Regulation of the Ultra Judicial Principle in Criminal Judgments," *Jambura Law Review*. 3, No. 2 (2021): 395-410., 398.

<sup>3</sup> Weny Almoravid Dungga and Abdul Hamid Tome, "Identifikasi Faktor Penghambat Penyelenggaraan Pengawasan Ketenagakerjaan Di Provinsi Gorontalo," *Jambura Law Review* 1, no. 1 (2019): 1-21., 3

services by the wishes and abilities of consumers. On the other hand, the conditions and phenomena mentioned above can result in the position of business actors and consumers becoming unbalanced and consumers in a weak position.<sup>4</sup>

Goods delivery services are a form of intermediary that is often used by the public in general in the fulfillment of goods, a situation often occurs that causes the goods delivered not to arrive at the agreed party by the conditions agreed upon. This situation may occur if the intermediary party is negligent in carrying out its responsibility to deliver the goods promised. The result of this negligence is damage or loss of the goods that have been agreed upon. Year after year, the delivery of goods via sea transportation mode is decreasing due to the many shipping problems such as loss of cargo, damage to cargo, and processing of documents for the cargo of goods by sea and the management takes a lot of time and money to take care of all that.<sup>5</sup>

The transfer of risks to maritime accidents is part of the law of liability or insurance against marine accident losses that can be reduced or mitigated and even borne by other parties on conditions agreed in advance. The transfer of risk in sea transportation is a common thing encountered in the transportation of goods by ship transportation mode.<sup>6</sup>

Shipment of goods by sea is known as sea cargo insurance. This type of insurance aims to protect the owner of the goods against the possible dangers of risks that befall the ship's cargo. The risks in question are all types of risks originating from maritime hazards. These risks are categorized as risks originating from the sea including hurricanes, high waves and so on as well as hazards at sea.<sup>7</sup>

The cause of the delay in sending cargo is the occurrence of bad weather which disrupts the delivery process both on land, sea and air. Because bad weather can happen anytime and anywhere, problems in shipping cargo using containers are getting better, more efficient with sea transportation, shipping cargo using sea transportation, processing cargo documents and weather conditions at the time of loading, not only events during the trip causing delays in shipping goods.<sup>8</sup>

Every consumer who feels aggrieved by a business actor can complain about his problem to BPSK, either directly, initiated by his attorney or by his heirs. In Article 47 of Law no. 8 of 1999 concerning Consumer Protection, it is stated that the settlement of

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<sup>4</sup> Adrian Sutedi., *Tanggung Jawab Produk Dalam Hukum Perlindungan Konsumen*. (Bogor: Ghalia Indonesia, 2008), 2

<sup>5</sup> Yoga Septian, Paleon, Sutini, Harcici, "Pengiriman Kargo Untuk Mendukung Transaksi Pengiriman Barang Untuk Peningkatan Transaksi Biaya Pengiriman Lebih Efisien.," *Jurnal Dinamika Bahari* 1, no. 1 (2020): 7-14., 7

<sup>6</sup> Fadhly Wicaksono, "Hukum Aspek Pengiriman Barang Oleh Perusahaan Jasa Ekspedisi Dan Cargo Melalui Pengangkutan Laut.," *Jurnal Jurist-Diction* 3, no. 5 (2020): 1697-1712., 1698

<sup>7</sup> *Ibid.*, 1700.

<sup>8</sup> Paleo, Op. Cit., 6

consumer disputes outside the court, in this case BPSK is held to reach an agreement regarding the form and amount of compensation for a person regarding certain actions guaranteeing that losses will not occur again or will not repeat losses suffered by consumers. The Consumer Dispute Settlement Agency (BPSK) is a special institution established by each Level II Region for resolving consumer disputes outside the court. Description of the institution and membership, duties and authorities,<sup>9</sup>The existence of existing regulations provides equal rights for every citizen.<sup>10</sup>

Protection of consumers is seen both materially and formally as increasingly important, bearing in mind the speed of science and technology which is the driving force behind the productivity and efficiency of producers of the goods and services they produce in order to achieve business goals. In order to pursue and achieve these two things, either directly or indirectly. Consumers are generally the ones who will feel the impact. Thus, providing adequate protection to consumer interests is an important and urgent matter for immediate solutions to be found, especially in Indonesia given the complexity of problems relating to consumer protection. The benefit is that it does not become clashes in the life of society and the state.<sup>11</sup>

## 2. Method

The method used in this research is methodology empirical legal research and using a qualitative approach and descriptive qualitative analysis techniques.

## 3. Legal Protection for Consumers for Damage to Goods by Sea

Currently, because buying and selling agreements through online media can be completed very quickly, many people choose to make buying and selling transactions online so that the process is easier for all parties. The Instagram platform, where products sold through online media can be seen by customers 24 hours a day, is currently in great demand by the general public for buying and selling. The advantage of buying and selling through online media is that buyers can quickly contact sellers and make payments besides knowing the shape of the goods. The Book Engagement Section III of the Civil Code basically regulates buying and selling transactions carried out through online media. Specifically, buying and selling transactions through electronic media are regulated in Law Number 19 of 2016 concerning Information and Electronic Transactions, contained in Book III on engagement, Chapters 1 to Chapter V, and other related articles as legal standards. Instagram agreement for buying and selling This is very similar to a buy and sell transaction, which generally starts with an offer and a request.

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<sup>9</sup> Nababan, Loc. Cit., 22

<sup>10</sup> Abdul Hamid Tome, "Dynamics of Village Head Election Arrangements." *Jambura Law Review*. 3, No. Special Issue (2021): 96-116., 101

<sup>11</sup> Lusiana Tijow, "Perlindungan Hak Asasi Manusia Terhadap Hak Hidup Anak Dalam Kandungan Di Luar Pbrkawinan Yang Sah," *Jurnal Legalitas*. 3, No. 2 (2003): 79-90., 80.

According to the author, the only basis for a sale and purchase agreement that occurs between two parties through online platforms such as Instagram, Facebook, Shopee, Tokopedia, and other media is the trust of the seller and buyer. Because there is no formal agreement used in a sale and purchase agreement made through online media, if one party fails, the sale and purchase agreement is null and void and cannot be used to resolve problems between the parties. Due to the fact that the buyer and seller have violated the sale and purchase agreement using the Instagram online platform, further research is needed to understand the legal terms used in the agreement as well as the settlement options available when one of the parties does so.

The buying and selling agreement that is carried out must be in accordance with the applicable laws and regulations. So that no party will be harmed later. Sellers and buyers who default should mediate in advance in resolving sale and purchase disputes. When the mediation process has been carried out but does not reach a mutual agreement, other alternative settlement efforts can be made before resolving through court or legal channels.

Consumers' right to information is very important because it allows them to get a clear picture of the product they want, buy it according to their preferences, and avoid losses due to inaccurate information. Before spending their money on goods, buyers place a high priority on having accurate and complete information about the product. According to Article 7 Letter F of Law Number 8 of 1999 Concerning Consumer Protection (UUPK), business actors are obliged to provide compensation for the use of traded services. In more detail, Article 19 stipulates that the expedition service provider is obliged to replace the consumer for damaged consumer goods in the form of money equal to the price of the damaged goods or replace them with identical goods.<sup>12</sup>

If the author analyzes this article with legal protection for consumers, basically it can provide guarantees for losses that consumers get for goods they receive in damaged condition. Therefore, this regulation can also warn senders and shipping services to always provide the best service for goods sent by sea. However, what also needs to be considered is that in a delivery service, of course, in a condition on the road when sending, there are various kinds of problems that will arise beyond human thought. Therefore for the delivery service to ensure the security of goods to be sent by sea. As stated by the Head of the PT MAE Cargo Gorontalo Office that:

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<sup>12</sup> Agastya, Ida Bagus Ketut, I. Made Udiana, "Perlindungan Hukum Terhadap Pengguna Jasa Pengiriman Barang Dengan Kendaraan Bermotor Umum Pada Pt. Pahala Express Delivery Denpasar.," *Journal Ilmu Hukum*. 7, no. 12 (2019): 1–15., 8

"Basically I always give directions to all employees to be able to maintain the security of goods sent by the producer to consumers, the business exists, but we don't know in the field what kind of work my employees do"<sup>13</sup>

The statement above is certainly in accordance with applicable regulations, as in Article 468 of the Criminal Code regulates transportation where the carrier is obliged to maintain the security of the consumer's goods so that they remain intact starting when the goods are handed over to the time the goods are handed over to the consumer. It is also undeniable that there are obstacles experienced during the delivery process which can cause damage, delays in delivery, and even loss of consumer goods. Service companies are obliged to be responsible for losses suffered by consumers. There are several principles of responsibility in transportation, namely:<sup>14</sup>

1. The principle of responsibility is based on the fault liability principle;
2. The principle of responsibility based on presumption (presumption of liability principle);
3. The principle of absolute liability (absolute liability principle).

Can provide an understanding that the Head of PT MAE Cargo Gorontalo Office must improve supervision of employees working in the field. Because this will provide certainty that their work is carried out as well as possible, where this will also have a good impact on shipping services, in this case PT MAE Cargo Gorontalo. As data obtained from the PT MAE Cargo office in November 2022, it was recorded that there were two cases of complaints by consumers regarding the goods they received in damaged condition. This was conveyed by the Head of Office that:

"This November we received 2 complaints about damaged goods, so indirectly we as a delivery service provide compensation to the consumers themselves"<sup>15</sup>

The form of compensation carried out by the delivery service basically does not provide full protection for consumers, where the compensation process only pays half of the price of the goods. So if it is compared with consumer protection regulations that according to Article 4 letter g of Law Number 8 of 1999 concerning Consumer Protection or also called UUPK, consumers have the right to ask for compensation, compensation, and/or reimbursement if the goods and/or services they receive are not in accordance with applicable regulations. contract or not as it should. Consumers

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<sup>13</sup> "Results of Interview with Irwanto Mardjuki as Head of Pt. Mae Cargo Gorontalo. Monday, 14 November 2022"

<sup>14</sup> I Wayan, Prihantini, Made Bella Meisya; Parsa, "Perlindungan Konsumen Terkait Pembatalan Secara Sepihak Voucher Hotel Oleh Pelaku Usaha Traveloka.," *Journal Ilmu Hukum*. 7, no. 5 (2019): 1-15., 12

<sup>15</sup> Interview Results with Irwanto Mardjuki as Head of Pt. Mae Cargo Gorontalo. Monday, November 14, 2022



are entitled to proper compensation if they believe that the quantity and quality of the goods and/or services they receive do not match the exchange rate offered. The amount of compensation can be determined by applicable law or based on a mutual agreement between the parties. UUPK also states in Article 7 letter G that business actors are required to provide compensation, compensation and/or reimbursement if the goods and/or services. Legal protection is a form of defense given to legal subjects through written or unwritten legal instruments that can be preventive or repressive in nature. According to legal understanding, consumers have the right to ask for compensation from corporate actors as the aggrieved party. Legal protection is a form of defense given to legal subjects through written or unwritten legal instruments that can be preventive or repressive in nature. According to legal understanding, consumers have the right to ask for compensation from corporate actors as the aggrieved party. Legal protection is a form of defense given to legal subjects through written or unwritten legal instruments that can be preventive or repressive in nature. According to legal understanding, consumers have the right to ask for compensation from corporate actors as the aggrieved party.<sup>16</sup>

Furthermore, the problem of damage to goods by sea is something that rarely happens in the world of shipping goods. The responsibility of the forwarding company in compensating for losses suffered by consumers in the delivery of goods resulting from damage to goods or loss of goods is to look for evidence that the damage and loss of goods occurred as a result of the transportation of goods to the detriment of the consumer in accordance with Article 188 of Law No. 22 of 2009 concerning Road Traffic and Transportation and Article 1 point 1 of Law No. 8 of 1999 concerning Consumer Protection. This is as conveyed by the employee in the field of delivery services that:

“Damage to goods during delivery is common, because there are many causes. For example, the weather conditions at sea are uncertain. If the sea conditions are choppy, then indirectly the safety of the goods in delivery will be damaged, because what we will protect is not just one or two goods during delivery, but there are many goods sent by the producers”<sup>17</sup>

Explained by one of PT MAE Cargo Gorontalo's employees, it can provide an understanding that in the delivery of goods, if the sea weather conditions are very bad, then it is likely that there are many damaged goods, because the condition of the cargo ships sent by goods sometimes cannot guarantee that the condition will arrive in a safe or good condition. fine. Accordingly, according to the statement from the employee in charge of shipping the goods, he stated that shipping goods by sea does have a lot of risks, so PT MAE Cargo Gorontalo must be responsible for the damage to the goods.

## 1. Forms of Legal Protection by PT MAE Cargo Gorontalo

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<sup>16</sup> Mariam Darus Badruzaman., *Kompilasi Hukum Perikatan*. (Bandung: Pt Citra Aditya Bakti, 2001)., 21

<sup>17</sup> "Results of an interview with Yanti as part of the shipping field at Pt. Mae Cargo Gorontalo. Wednesday, 24 November 2022"

PT MAE Cargo Gorontalo basically provides protection to consumers in the form of liability for damaged consumer goods. There are two forms of responsibility given, namely:

1) Provision of Compensation Half of the price of goods

As previously explained, the compensation process carried out by PT MAE Cargo Gorontalo is a form of responsibility to consumers for goods that are damaged but can still be used. This means that even partially damaged goods will be replaced by the company. But must follow the company's own procedures. Based on the statement from the Head of PT MAE Cargo Gorontalo Office that:

"If consumer goods are partially damaged and complaints are made to the expeditionary party, in this case we as freight forwarders, we will provide compensation. However, there must be a procedure that must be carried out in this case, such as having to fill out a complaint form first if the product sent is lost, damaged, or delivered late. then watch for the destination office to respond. It usually takes up to two months to actually get compensation after submitting an application for reimbursement."<sup>18</sup>

"It is true that in the process of compensation we will still provide it if the consumer fulfills the legal terms and conditions that apply in our company"<sup>19</sup>

The compensation process can be carried out if the consumer after making a complaint at the shipping office has to fill out a form or it can be said that he has to carry out the orders of the applicable laws and regulations.

2) Compensation for the entire price of goods

Based on what was said by the Head of Office that:

"In addition to compensating half of the price of damaged goods, we also provide compensation for goods that are damaged as a whole, but still pay attention to the procedures in force"<sup>20</sup>

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<sup>18</sup> "Results of Interview with Irwanto Mardjuki as Head of Pt. Mae Cargo Gorontalo. Monday, November 14, 2022."

<sup>19</sup> "Results of Interview with Meldiyana as Treasurer of Pt. Mae Cargo Gorontalo. Wednesday, 18 November 2022"

<sup>20</sup> "Results of Interview with Irwanto Mardjuki as Head of Pt. Mae Cargo Gorontalo. Monday, November 14, 2022."



"It's not only the overall damage that we will provide compensation for, but also lost items will be the responsibility of the office"<sup>21</sup>

The compensation process, as the author described in the previous discussion, is that the process is part of a form of protection for consumers for goods purchased in a damaged condition. So that in the future the compensation process for consumers will have a positive impact on expeditions, in this case PT MAE Cargo Gorontalo, so that they become shipping subscriptions for consumers when buying goods on any media. Furthermore, as explained by the employee in the field section, the compensation process is basically not only given to consumers when the goods are partially damaged or damaged as a whole. But the office will also be responsible for consumer goods which, when sent by the seller or in this case as a producer, do not arrive, in other words, they are lost during delivery.

According to Article 19 paragraph (1) of Law Number 8 of 1999 Concerning Consumer Protection Regarding the Responsibilities of Business Actors, business actors are responsible for providing compensation for damage, pollution and/or consumer losses as a result of consuming goods and/or services produced or traded. Furthermore, paragraph (2) explains that compensation as referred to in paragraph (1) can be in the form of replacement, replacement with goods and/or services that are comparable or equivalent in value, health care, and/or compensation in accordance with applicable regulations. the provisions of the relevant laws and regulations.

## 2. Legal Protection in Law no. 8 of 1999 concerning Consumer Protection

The Consumer Protection Law contains provisions regarding the right to compensation or compensation in Article 4 Number 8, where consumers are entitled to compensation and/or reimbursement if the goods and/or services received are not in accordance with the agreement. In addition to the rights regulated in Article 4 of the UUPK, the rules regarding this compensation are also regulated in Article 7 letters f and g which stipulates that the obligations of business actors must be seen as consumer rights. According to Article 7 Letter F, business actors are required to replace, provide compensation, and/or compensate for losses caused by the use, use, and use of traded goods and/or services. Conversely, Article 7 letter G states that if the goods or services obtained or used are not in accordance with the agreement, compensation, compensation and/or replacement will be given.<sup>22</sup>

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<sup>21</sup> "Results of Interview with Meldiyana as Treasurer of Pt. Mae Cargo Gorontalo. Wednesday, November 18, 2022."

<sup>22</sup> "Law No. 8 of 1999 concerning Consumer Protection"

Article 3 Law no. 8 of 1999 concerning Consumer Protection, it is explained that the objectives of consumer protection include:<sup>23</sup>

- a. Increasing consumer awareness, ability and independence to protect
- b. Raise the dignity of consumers by preventing them from negative access to the use of goods and/or services.
- c. Increasing consumer empowerment in choosing, determining and demanding their rights as consumers.
- d. Creating a consumer protection system that contains elements of legal certainty and information transparency as well as access to information. Growing awareness of business actors regarding the importance of this protection so that honest and responsible attitudes grow in doing business.
- e. Improving the quality of goods and/or services that guarantee the continuity of the business of producing goods and/or services, health, comfort, security and consumer safety.

Policy is very important to take, because it can become a strong legal umbrella for local governments to protect.<sup>24</sup> Since the Consumer Protection Act was passed, it is believed that steps to protect consumers, which have reportedly received little attention because consumers are often in vulnerable situations, will receive greater attention. Because actually every citizen has the right to legal protection, including the right to consumer protection. The United Nations has also released guidelines on fundamental consumer rights, consumer protection laws, and assistance to member countries in developing and enforcing local consumer protection laws, rules, and regulations.<sup>25</sup> Quoting what was said by Lisnawaty Badu where it was said that the right to life must also be protected by the state, especially the rule of law.<sup>26</sup>

If you look at the various types of description above, it can provide an understanding that the purpose of establishing this consumer protection law, even though it expressly states protecting consumers, can be concluded from various aspects of the purpose of legal protection that have been discussed above. But at their core, these laws serve multiple purposes. If you look at the rules contained therein, it becomes clear that this law was also made to protect the interests of business actors in the hope of fostering a positive business climate, improving the quality of the products produced, and achieving consumer satisfaction with these products. By itself, there are no more customers who feel aggrieved by one of the parties to the transaction because of their dishonest behavior.

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<sup>23</sup> Elsi Kartika Sari and Advendi Simanunsong., *Law in Economics*. (Jakarta: Pt Grasindo, 2008)., 162

<sup>24</sup> Novendri Mohamad Nggilu, Lisnawaty Wadju Badu, and Suwitno Yutye Imran, "Legal Protection Bonda And Bulango Language: In Reality And Prospect." *Jambura Law Review*. 3, No. 1 (2020): 19–36., 32

<sup>25</sup> Abdul Halim Barkatullah., *Framework Sistem Perlindungan Hukum Bagi Konsumen Di Indonesia*. (Bandung: Nusa Media, 2016)., 26.

<sup>26</sup> Badu Lisnawaty, "Euthanasia Dan Hak Asasi Manusia," *Jurnal Legalitas* 5, no. 1 (2012): 1–11., 1

## 4. Conclusion

Legal protection for consumers for damage to goods by sea, there are several things, namely the protection provided by the expedition in the form of responsibility for losses suffered by the consumer. This responsibility is in the form of providing compensation for damaged goods while being transported by our expedition, in this case PT MAE Cargo Gorontalo. In addition, there are forms of legal protection provided by consumer protection regulations, including those contained in Article 7 letter f of the consumer protection law by imposing business actors to provide compensation and compensation for goods received by consumers in a damaged condition.

The expeditionary party, in this case PT MAE Cargo Gorontalo, must further improve security for goods loaded by ship. So that this minimizes and reduces the provision of compensation for damaged goods resulting from weak ship security in the face of bad sea conditions.

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