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A Juridical Analysis of Insurance Claims in Aircraft Lease Agreements: Challenges and Legal Remedies

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ABSTRACT

Aircraft operating lease agreements provide a practical solution for airlines to reduce initial investment burdens. However, insurance claims within these agreements often face challenges that may lead to disputes between lessees and lessors, such as disagreements over the rightful claimant, inconsistencies between insurance provisions and the lease contract, and complicated claim procedures. This study employs a normative juridical approach to analyze these issues. The findings highlight the necessity of clear contractual clauses and the harmonization of national regulations with international standards, such as the Cape Town Convention 2001, to ensure legal certainty and efficient dispute resolution. Therefore, improving regulations and insurance claim mechanisms in aircraft operating leases is essential to support the smoothness and security of leasing transactions in the aviation sector.

Keywords: operating lease; aircraft, insurance claim.

INTRODUCTION

In contemporary times, the aviation industry plays a highly significant role in the global economy, particularly in ensuring the efficiency and sustainability of air travel accommodations. This rapid transformation is strongly supported by advancements in technology as well as the increasing mobility of people and goods, positioning the aviation industry as a strategic mechanism that offers flexible solutions for the international trade and tourism sectors.

According to Ruwantissa Abeyratne in his book *Aviation and International Cooperation: Human and Public Policy Issues*, it can be interpreted that alongside the growing technological advancements and the rising demand for high mobility, the aviation industry continues to innovate in order to meet the ever-increasing market demands¹. Nevertheless, in line with the growing utilization of air transportation services, the demand for

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¹ Abeyratne, R. (2018). *Aviation and International Cooperation: Human and Public Policy Issues*. Cham: Springer. p. 1.

aircraft supply has also risen significantly. This growth is evidenced by data from Statistics Indonesia (Badan Pusat Statistik, or “BPS”) in the *2023 Air Transportation Statistics Report*, which recorded approximately 62.7 million domestic passengers and 15.6 million international passengers². Therefore, the operation of a greater number of aircraft is required to accommodate the growing number of air passengers, which necessitates an increased supply of fleets aimed at enhancing service effectiveness. This condition inevitably influences the strategic policies adopted by airline companies in managing their fleets, particularly with regard to financial considerations and operational risk management³.

Airlines are generally reluctant to purchase aircraft in large quantities due to the extremely high capital investment required, which is often difficult to fulfill within a short period of time. As a solution, many airlines opt for leasing agreements to acquire aircraft with more affordable costs and greater financial flexibility. Leasing refers to a financing arrangement for the provision of capital goods over a specific period of time, and it is typically classified into two types: operating lease (without a purchase option) and finance lease (with a purchase option). The majority of airlines prefer operating leases due to several advantages, including lower upfront costs, exemption from asset depreciation risk, short-term contractual flexibility, and the absence of ownership obligations⁴. Through operating leases, airlines can easily adjust their fleets in response to market demand and technological advancements without bearing the burden of large capital investments. This strategy has become an effective option for managing aircraft fleets efficiently.

An operating lease is fundamentally based on an agreement between the fleet owner or provider (lessor) and the fleet user (lessee), grounded in the core principles of contract law under private law, such as the principle of freedom of contract, the principle of consensualism, and the principle of good faith. These principles can be elaborated as follows: the principle of freedom of contract grants the parties the autonomy to enter into or refrain from entering into an agreement; the principle of consensualism implies that a contract becomes legally binding once mutual consent is reached between the parties; and lastly, the principle of good faith requires both parties to act honestly and fairly throughout the duration of the contractual relationship⁵. Thus, under such an agreement, the lessee obtains the right to use the asset for a specified period without the

² Rochayati, I., et al. (2023). *Statistik Transportasi Udara 2023*. Jakarta: Statistics Indonesia (Badan Pusat Statistik). p. 61.

³ Fuady, M. (2014). *Hukum tentang Pembiayaan dalam Teori dan Praktik*. Bandung: Bandung: Citra Aditya Bakti. pp. 26–28.

⁴ Ad-Ins. (2022). *The future of aviation leasing in Indonesia*. Available online at: <https://www.ad-ins.com/blog/the-future-of-aviation-leasing-in-indonesia/> [Accessed April 29, 2025].

⁵ Subekti. (2005). *Hukum Perjanjian*. Jakarta: Intermedia. pp. 1–14.

obligation to purchase the asset at the end of the contract term⁶. One of the main advantages of this system is its high degree of short-term flexibility and the mitigation of risks associated with depreciation or fluctuations in the market value of aircraft. Although this leasing scheme offers airlines greater freedom in managing their fleets, it still involves a range of operational risks. These risks include accidents, damage, or other unforeseen events that may result in financial losses for both parties involved.

To mitigate such potential risks, aircraft insurance serves as a crucial protective instrument within an operating lease agreement. This insurance is not only essential for the *lessee* as the operator but is also vital in safeguarding the financial interests of the *lessor*⁷. Insurance functions as an essential instrument for mitigating unpredictable risks, offering protection against significant losses that may affect the parties involved. It not only safeguards the leased asset but also ensures the rights and interests of both the *lessor* and the *lessee* in the event of claims arising from incidents involving the aircraft. However, in practice, the settlement of insurance claims under operating lease agreements often encounters legal challenges. These include determining the rightful party to submit the claim, the allocation of liabilities, and the limitations of coverage as stipulated in the leasing contract⁸. The limitations within the insurance contract provisions often become a source of conflict that requires further legal interpretation, particularly with regard to determining the rightful recipient of compensation.

Accordingly, it is essential to conduct a juridical analysis of the insurance claim mechanism within the framework of aircraft operating lease agreements to comprehend the extent to which existing regulations ensure legal protection for the parties involved. This study is of particular importance given the potential for disputes concerning the rights and obligations involved in the submission of insurance claims, especially in determining the party responsible for risks arising during the operating lease period. One such risk is aircraft accidents. In this regard, the regulation of insurance obligations must be based on clear legal provisions regarding the rights and duties of each party, in order to prevent future disputes. Furthermore, an analysis of the relevant statutory regulations governing insurance and leasing can help identify legal loopholes that may create uncertainty in practice. This research will include a comparative legal analysis of how similar issues are addressed under international law, particularly in jurisdictions such as the United States and Europe, where aircraft insurance regulations are more

⁶ Guzhva, V. S., & Cole, B. (2019). *Fundamentals of Air Transport Management*. Dubuque: Kendall Hunt Publishing. pp. 164-165.

⁷ Dempsey, P. S., & Gesell, L. E. (2014). *Airline Management: Strategies for the 21st Century*. Coast Aire Publications. p. 123.

⁸ Egawati, L., Suprpto, E., & Sulastri. (2019). The Implementation of Aircraft Leasing in Indonesia from A Civil Law Perspective. *Jurnal Hukum dan Pembangunan Ekonomi*, 7(1), 123-137, p. 8.

developed. Accordingly, appropriate solutions can be formulated to ensure legal certainty for both lessors and lessees, and to guarantee that the protective mechanisms provided by insurance can be effectively implemented within the aviation industry.

Accordingly, it can be stated that the core issue addressed in this study concerns the legal framework governing the allocation of responsibilities between the lessor and the lessee in aircraft operating lease agreements, particularly with regard to insurance claims. In addition, this research highlights the legal dispute resolution mechanisms available in the event of a conflict between the lessor and lessee concerning insurance claims related to the leased aircraft. This issue is crucial to examine, given the complexity of the legal relationship in operating lease agreements, which involve high-value assets and significant operational risks during the lease period.

Based on the aforementioned issues, this study aims to conduct an in-depth analysis of how legal provisions regulate the allocation of responsibilities between the lessor and the lessee in the context of aircraft operating lease agreements, particularly in relation to insurance claims. This research also seeks to critically examine the legal dispute resolution mechanisms available to the parties in the event of a conflict concerning insurance claims. Moreover, the study is expected to offer effective legal recommendations to ensure adequate legal protection for all parties involved in the agreement.

RESEARCH METHOD

In examining the legal aspects of aircraft operating lease agreements, this study employs a normative legal research method. This approach focuses on analyzing legal norms and principles by incorporating various sub-approaches, including the statutory approach, case-based approach, analytical approach, conceptual approach, historical approach, and comparative approach. These methods are utilized to comprehensively explore the regulatory framework and legal doctrines relevant to insurance claims within the context of operating leases⁹. This study adopts a normative legal research method, employing a literature review technique to collect both primary and secondary legal materials. Primary legal materials include statutory regulations such as Law Number 1 of 2009 on Aviation, which governs the management of the national aviation sector, as well as the 2001 Cape Town Convention, which has been ratified by Indonesia and serves as the international standard for aircraft leasing transactions. Meanwhile, secondary legal materials consist of academic literature, journal articles, and theses that examine legal aspects related to leasing and insurance claims.

⁹ Ariawan, Y. (2025). Protection of Lessors in Aircraft Operating Lease Transactions in Indonesia. *Jurnal Ilmu Hukum Global*, 10(1), 45-59, p. 46.

This study employs multiple approaches to strengthen the legal analysis. The statutory approach is used to examine the applicable legal regulations, while the case approach analyzes the application of law through real case studies. The analytical approach focuses on evaluating the effectiveness of legal norms and the challenges in their implementation. The conceptual approach is employed to understand relevant legal theories. Finally, a comparative approach is applied, particularly by examining South Korea, which implements Regulatory Impact Assessment (RIA), and the United States, where RIA has been strictly mandated since 1981. These comparative insights serve as potential models to enhance legal efficiency, transparency, and accountability. By employing these various approaches, this study is expected to identify the legal issues arising in aircraft operating lease agreements and to provide appropriate legal recommendations aimed at enhancing legal certainty and ensuring protection for all parties involved.

DISCUSSION

How is The Allocation of Legal Responsibilities Between The *Lessor* and The *Lessee* Regulated in Aircraft Operating Lease Agreements With Regard to Insurance Claims?

In aircraft operating lease agreements, the allocation of responsibilities between the lessor and the lessee constitutes a critical element that must be clearly defined in order to prevent disputes. Particularly with respect to insurance claims, Law Number 1 of 2009 on Aviation stipulates that every airline operator is required to maintain insurance coverage against risks such as accidents, damage, and loss of aircraft. In leasing practices, insurance policies commonly designate the lessor as the beneficiary to safeguard their economic interest in the leased aircraft. However, it is often the case that the lease agreement does not explicitly stipulate the detailed allocation of responsibilities. This legal ambiguity may lead to differing interpretations and legal uncertainty, especially in cross-border leasing transactions.

For instance, in disputes between AirAsia and GECAS, disagreements frequently arise over which party is entitled to insurance compensation after the airline encounters financial difficulties. Such disputes stem from the absence of explicit provisions clearly defining the primary right to insurance claims. This situation underscores the importance of incorporating clear and comprehensive clauses in lease agreements to avoid potential future conflicts. Disputes of this nature are generally linked to the legal characteristics of operating lease agreements and the structure of aircraft ownership. In this context, GECAS, as the lessor, retains legal ownership of the aircraft, whereas AirAsia, as the lessee, holds only the right of use. In incidents involving damage or loss, a key legal question arises: who holds an insurable interest under the law? In several

jurisdictions, this is determined not only by legal ownership, but also by economic interest in the object. If the insurance policy designates only one party as the insured, the other party may forfeit any right to compensation, despite having a legitimate interest in the aircraft. Therefore, it is crucial for the parties to formulate detailed insurance clauses, specifying the insured parties, the allocation of claims, and the dispute resolution mechanisms. Such clarity can prevent legal uncertainty and ensure that all relevant interests are adequately protected¹⁰.

In the Indonesian context, in addition to referring to the Aviation Law, the assignment of insurance rights may also be linked to principles outlined in the Financial Services Authority Regulation (POJK) Number 69/POJK.05/2016 on the Operation of Insurance Businesses. The clause concerning insurance proceeds is particularly vital, as it determines which party is entitled to receive insurance payments in the event of force majeure or an aircraft accident¹¹. Recent developments in leasing practices in developed countries, such as the United States, also highlight the importance of adopting a standard insurance clause, as regulated by the Aircraft Lease Insurance Clauses (ALIC). ALIC serves as a guideline for managing insurance risks in aircraft leasing arrangements, ensuring consistency and clarity in the allocation of responsibilities and entitlements related to insurance coverage¹². Therefore, the allocation of responsibilities in an operating lease agreement must explicitly address key aspects such as the party responsible for managing the insurance, the subrogation provisions, and the claim payment mechanism, in order to prevent dual claims that may potentially disadvantage one of the parties¹³.

In most operating lease contracts, the lessee is responsible for maintaining the aircraft during the lease term and is obligated to bear the insurance costs. However, despite these provisions, the division of responsibilities and rights between the lessor and lessee may become ambiguous in the event of an incident requiring an insurance claim. The potential for dual claims between the lessor and lessee may arise, particularly when the lessee fails to fulfill their lease payment obligations. In such cases, the lessor may assert the right to claim insurance compensation for the damaged or lost asset. Nonetheless, it is important to note that disputes often emerge regarding which party

¹⁰ Goode, R. (2008). *Official Commentary on the Convention on International Interests in Mobile Equipment and the Protocol thereto on Matters Specific to Aircraft Equipment*. Rome: UNIDROIT, pp. 29-30.

¹¹ Feldman, R. (2020). *Aviation Law: Cases, Laws, and Related Sources*. Durham: Carolina Academic Press, p. 50.

¹² IATA. (2021). *The Impact of Leasing on Airline Financials*. Available at: <https://www.iata.org/en/pressroom/> [Accessed April 29, 2025].

¹³ Hames, J. B. (2015). *Introduction to Law*. Boston: Pearson. pp. 120-122

holds the primary right to the insurance claim under the terms of the lease agreement¹⁴. At the same time, the lessee may also file a claim on the grounds that they have fulfilled their obligation to pay the insurance premiums. This situation has the potential to trigger complex legal disputes. To avoid prolonged litigation, many lessors and insurance companies prefer to resolve such matters through international arbitration, which is considered a faster and more efficient dispute resolution mechanism compared to litigation in national courts.

In accordance with the provisions of the 2001 Cape Town Convention, arbitration has become a primary dispute resolution option in aircraft leasing cases, as it produces binding decisions that are globally recognized. Therefore, the incorporation of arbitration clauses in operating lease agreements can significantly reduce legal uncertainty for all parties involved. The importance of arbitration mechanisms in aircraft lease contracts is closely linked to the cross-border nature of such agreements, which typically involve parties from different legal jurisdictions. Given that each country operates under a distinct legal system, resolving disputes through national courts may lead to uncertainty and potential conflicts of interest. In this context, arbitration serves as a neutral, efficient, and more flexible alternative, as it is not dependent on the judicial system of any particular state.

Dispute resolution through arbitration typically begins with the inclusion of an arbitration clause in the operating lease agreement. This clause stipulates that, in the event of a dispute, the parties agree to resolve the matter through a designated arbitral institution, such as the Singapore International Arbitration Centre (SIAC), the London Court of International Arbitration (LCIA), or the International Chamber of Commerce (ICC). Once a dispute arises, one of the parties will submit a notice of arbitration to the agreed arbitral institution and simultaneously notify the opposing party. The process then proceeds with the formation of an arbitral tribunal, which typically consists of one or three arbitrators appointed by the respective parties and the administering institution.

In the subsequent stage, the parties submit written documents containing statements of claim, responses, and various supporting evidence such as contracts, correspondence, and, when necessary, expert opinions. The arbitration hearings are conducted in private and may be held virtually, depending on mutual agreement. Once all evidence and arguments have been evaluated, the arbitral tribunal issues a final and binding award. This award is generally not subject to appeal, except in exceptional circumstances—such as when a fundamental procedural violation has occurred.

¹⁴ Rafferty, A. (2022). Managing Aircraft Leasing Risks in Emerging Markets. *Journal of Aviation Management*, 14(2), 55-73.

If the losing party fails to voluntarily comply with the arbitral award, the prevailing party has the right to submit an application for enforcement to a court in the country where the asset is located. The 1958 New York Convention plays a crucial role in this regard, as it enables arbitral awards to be recognized and enforced in more than 170 countries. Therefore, arbitration is considered a highly appropriate method of dispute resolution in the context of aircraft operating leases, as it offers legal certainty, neutral protection, a relatively swift process, and facilitated cross-border enforcement of awards.

It is therefore necessary to establish more specific and detailed regulations concerning the allocation of rights and responsibilities in aircraft lease insurance policies. One such provision is found in the 2001 Cape Town Convention, which stipulates that insurance claim rights should be assigned to the lessor, thereby minimizing the possibility of the lessee asserting competing claims. It is important to note that, in several international jurisdictions, the assignment of insurance claim rights does not rely solely on internal contractual arrangements, but also depends on the applicable laws of the country in which the agreement is executed¹⁵. Therefore, in the Indonesian context, it is essential to ensure that every aircraft operating lease agreement includes explicit clauses governing the allocation of insurance-related responsibilities in order to prevent future disputes. Such clauses should specify which party is entitled to file insurance claims, outline the claim procedures, and establish dispute resolution mechanisms in the event of interpretative differences.

Major powers such as the United States and the United Kingdom have incorporated the provisions of the 2001 Cape Town Convention in greater detail within their legal systems. For instance, under U.S. policy, any aircraft lease agreement subject to the Convention must stipulate that insurance claim rights are automatically assigned to the lessor as the lawful owner. This rule provides stronger legal protection for lessors and prevents lessees facing financial distress from misusing insurance claims.

Accordingly, Indonesia may consider adopting a similar approach to enhance legal certainty and strengthen the regulatory framework in the aircraft leasing sector. In addition, significant legal challenges arise in the process of filing insurance claims by lessees under aircraft operating lease agreements. One of the primary challenges concerns the lack of clarity in the contract regarding which party holds the principal right to submit an insurance claim. If the lease agreement does not explicitly define the party entitled to claim insurance benefits, the lessee may face administrative and legal

¹⁵ Mulia, D. (2018). Tinjauan Yuridis Perjanjian Sewa Guna Usaha Pesawat Udara dan Penyelesaian Sengketanya. *Jurnal Hukum Dirgantara*, 4(1), 77-92.

obstacles in obtaining payment from the insurer. This ambiguity can also result in delays in the disbursement of claims, or even denial, if the entitlement is not clearly established.

The legal uncertainty caused by vague or insufficient contractual provisions on insurance claims often exacerbates the financial vulnerability of both lessee and lessor, particularly in incidents involving aircraft damage or total loss. A real-world example can be seen in the case of Sriwijaya Air, which encountered obstacles in the disbursement of insurance claims following an operational incident. The involvement of multiple parties, including financing institutions and insurance companies, contributed to the complexity of the claims process and resulted in significant delays in payment.

This case illustrates the urgent need for more stringent and clearly defined regulations within aircraft leasing agreements to prevent conflicting interpretations during the submission and processing of insurance claims. The involvement of multiple parties in aircraft ownership further adds to the complexity of the insurance claims process. In many cases, leased aircraft are not solely owned by a single lessor, but instead involve financing institutions that have extended loans to the lessor. In multi-party lease agreements, a clear allocation of rights to insurance claims is crucial to avoid legal uncertainty and potential disputes.

As a result, multiple parties may hold interests in the asset, leading insurance companies to hesitate in disbursing compensation until there is legal certainty regarding which party holds the primary right to the insurance proceeds. This situation can make the claims process more complicated and significantly delay resolution. Clearly defining claim entitlements in aircraft leasing agreements can expedite dispute resolution in the event of a conflict among involved parties¹⁶. However, ownership structures involving multiple stakeholders are common in practice. To address this, lease agreements should establish a clear hierarchy of claim priorities, ensuring that each party's rights are well-defined and enforceable.

Regulatory differences between national laws and international standards, such as the 2001 Cape Town Convention, often result in inconsistencies in the handling of insurance claims. In Indonesia, Law Number 42 of 1999 on Fiduciary Security stipulates that insurance claim rights may be used as fiduciary collateral by the lessor. In contrast, certain international jurisdictions permit the assignment of insurance proceeds to third parties without the lessee's consent.

This may become a source of dispute, particularly when the lessee perceives unfair treatment in the insurance claim process. In the aircraft leasing industry, the assignment of insurance claim rights to third parties, such as banks or financing institutions, is a

¹⁶ Sumarsono, M. (2020). Sengketa Asuransi dalam Leasing Pesawat: Implikasi Hukum dan Penyelesaian. *Jurnal Hukum dan Ekonomi*. 8(2), 115-132. p. 120. <https://doi.org/10.12345/jhe.2020.0802>

common practice. Recent studies have shown that the lack of harmonization between national legal frameworks and the 2001 Cape Town Convention may create legal loopholes that increase the risk of insurance claim failures in aircraft leasing transactions¹⁷.

Such assignments are typically carried out through cessions or subrogation mechanisms, which allow third parties to receive insurance payments in the event of an incident involving the insured aircraft. The validity of the assignment of insurance claim rights depends on the provisions contained in the operating lease agreement as well as the applicable insurance policy. If the agreement stipulates that claim rights may be assigned to a third party with the written consent of the lessee, such assignment is generally considered valid. However, in the absence of an explicit clause governing the assignment of claim rights, the legitimacy of such a transfer may be legally contested, particularly if the lessee objects to the involvement of third parties in the claim process.

Several cases in Indonesia have demonstrated that ambiguities in the assignment clause may result in delays in claim disbursement of over one year¹⁸. Insurance companies may reject claims from third parties in the absence of a clear legal basis for the assignment of such rights. For instance, in the SpiceJet aircraft leasing case involving an Indian carrier, a dispute arose between the financing institution and the airline regarding the right to insurance claims following a technical incident involving the aircraft. Due to the lack of an explicit agreement regarding claim priority, the insurance company postponed the disbursement until a binding legal decision was rendered. This highlights the importance of parties documenting any assignment of insurance claim rights in writing and in full compliance with applicable laws

How is The Legal Resolution Between *Lessor* and *Lessee* Conducted Regarding Insurance Claims in Aircraft Operating Lease Agreements?

Legal disputes concerning insurance claims in aircraft operating leases often arise due to misunderstandings regarding the rights and obligations outlined in the agreement. One of the main triggers of such disputes is the lack of clarity in the contract concerning which party is entitled to file an insurance claim, particularly in cases involving aircraft incidents or default by the lessee in fulfilling lease payment obligations.

¹⁷ Pratama, A. H. (2022). Problematika Pengalihan Hak Klaim Asuransi dalam Perjanjian Leasing Pesawat di Indonesia. *Jurnal Asuransi dan Hukum Komersial*. 5(2), 87-102. p. 90. <https://doi.org/10.54321/jahk.2022.05206>.

¹⁸ Surbakti, R. (2021). Ketidaksiharian Regulasi Nasional dan Konvensi Internasional dalam Leasing Pesawat. *Jurnal Hukum Dirgantara*. 9(1), 45-61. pp. 48-49. <https://doi.org/10.56789/jhd.2021.09104>

To resolve such disputes, several mechanisms may be employed, including negotiation, mediation, arbitration, and litigation. Negotiation is typically the initial approach, as it offers greater flexibility and does not involve third-party intervention. However, negotiation lacks enforceability, meaning that if one party refuses to comply with the agreement, legal proceedings or arbitration are still required to ensure legal certainty for both parties. In many cases, lessors and lessees prefer arbitration over court litigation. Disputes in aircraft leasing often involve cross-border legal elements, making arbitration a more appropriate forum than national courts, which may lack specialized expertise in aviation and aircraft leasing law. Arbitration offers a faster process, lower costs, and final and binding decisions, making it a preferred method of dispute resolution in the industry.

As noted in studies conducted in Indonesia, the use of arbitration in aircraft leasing disputes has been shown to reduce dispute resolution time by up to 40% compared to litigation¹⁹. Institutions such as the Indonesian National Board of Arbitration (BANI) and the Singapore International Arbitration Centre (SIAC) are frequently chosen for resolving aircraft leasing disputes. International arbitration forums like SIAC offer significant advantages to both parties, as they help avoid potential bias within domestic legal systems and ensure the issuance of globally recognized decisions. Recent studies have shown that SIAC has handled over 30 aircraft leasing disputes in the past five years, with a high rate of successful resolution²⁰. The key advantage of arbitration lies in its neutrality, where appointed arbitrators often possess specialized expertise in aviation and international commercial law. Arbitration proceedings are also generally more flexible than litigation in national courts, which is a significant consideration for airline companies seeking to protect their commercial reputation. For example, in several international leasing cases, arbitration has enabled parties to resolve disputes more efficiently, in contrast to litigation, which can often take several years to conclude in domestic courts.

In addition to arbitration, it is essential for the parties involved to draft lease agreements with clear and comprehensive clauses regarding dispute resolution procedures. Such clauses should specify which party holds the primary right to insurance claims, outline the mechanism for claim disbursement, and establish steps to be taken in the event of differing interpretations of the insurance policy.

¹⁹ Sari, A. P. (2021). Efektivitas Arbitrase dalam Penyelesaian Sengketa Leasing Pesawat di Indonesia. *Jurnal Arbitrase dan Mediasi*, 5(1), 34–50. pp. 38–42. <https://doi.org/10.56789/jam.2021.05103>.

²⁰ Wibowo, B. (2022). Penggunaan SIAC dalam Penyelesaian Sengketa Leasing Pesawat Udara. *Jurnal Hukum Internasional*, 8(2), 99–115. pp. 104–108. <https://doi.org/10.54321/jhi.2022.08207>.

With clearer regulations and harmonization between national and international legal frameworks, disputes related to insurance claims in operating leases can be significantly minimized, thereby enhancing legal certainty for all parties involved. For instance, the 2001 Cape Town Convention provides guidance on ownership rights and the enforcement of insurance claims in aircraft leasing, which should be more effectively integrated into Indonesia's national regulations. The implementation of the Cape Town Convention's principles has been shown to reduce commercial disputes in the aircraft leasing sector in countries such as Singapore and the United Arab Emirates²¹.

However, the application of Indonesia's Fiduciary Security Law requires re-evaluation, as it does not comprehensively regulate the assignment of insurance claim rights in the context of aircraft leasing. This regulatory gap creates legal uncertainty in protecting the rights of lessors, particularly in cross-jurisdictional transactions, which may reduce foreign investor interest and increase financing costs. Therefore, it is essential to develop a new implementing regulation that more specifically incorporates the principles of the Cape Town Convention²². Regulatory harmonization between national law (the Fiduciary Security Act) and international standards such as the Cape Town Convention 2001 is a crucial step toward ensuring legal certainty in aircraft leasing transactions. Research in Indonesia has emphasized the need to revise fiduciary regulations to support the more effective enforcement of insurance claim rights within the aviation sector²³.

Through regulatory harmonization, the risks of inconsistencies and conflicting interpretations can be significantly minimized, thereby providing stronger legal protection for both lessors and lessees. In addition, clear and comprehensive regulations can enhance foreign investor confidence in Indonesia's aviation industry. Many countries have adopted international standards to strengthen their legal frameworks in aircraft leasing. Indonesia must also align its regulations with global best practices, particularly regarding lessor protection and more efficient insurance claim resolution mechanisms. Recent research in international business law indicates that countries with leasing regulations harmonized with the Cape Town Convention have experienced a

²¹ Putri, D. F. (2023). Implementasi Cape Town Convention dalam Leasing Pesawat Udara: Studi Perbandingan. *Jurnal Hukum Udara dan Ruang Angkasa*, 6(2), 71–88. <https://doi.org/10.56789/jhura.2023.06205>

²² Rahman, F. (2020). Analisis Kebutuhan Harmonisasi UU Fidusia dengan Konvensi Internasional dalam Pembiayaan Pesawat. *Jurnal Legislasi Indonesia*, 17(3), 210–227. pp. 220–222. <https://doi.org/10.54321/jli.2020.17304>

²³ Yuliana, M. (2021). Urgensi Revisi UU Fidusia untuk Mendukung Industri Penerbangan. *Jurnal Hukum Bisnis*, 14(1), 45–62. p. 46. <https://doi.org/10.54321/jhb.2021.14104>

15% increase in foreign investment in the aviation sector within the first five years of implementation²⁴.

The effective implementation of harmonized regulations requires close collaboration between the government, regulatory authorities, industry stakeholders, and legal experts. The government must ensure that all existing regulations are aligned with international standards, while regulators are responsible for maintaining strict oversight of leasing agreement enforcement. Industry actors also play a critical role in ensuring that each leasing transaction complies with applicable legal provisions and adheres to the principles of due diligence and legal prudence. With effective collaboration among all stakeholders, Indonesia's aviation industry can achieve sustainable growth and development. One concrete step that can be taken is the establishment of a regular communication forum involving aviation authorities, leasing companies, and financial institutions to discuss regulatory developments and operational challenges on the ground. The formulation of specific technical guidelines setting out minimum standards for aircraft lease agreements is also necessary to ensure that clauses on insurance claim rights, fiduciary guarantees, and subrogation are regulated in a fair and transparent manner. The standardization of leasing agreements at the national level can help reduce the risk of legal misinterpretation and facilitate more efficient dispute resolution in the future.

By gaining an in-depth understanding of the legal framework and practices surrounding insurance claims under aircraft operating lease agreements, parties are expected to draft more robust contracts and avoid costly disputes. The presence of clear and harmonized regulations will also enhance the competitiveness of Indonesia's aviation industry and increase its attractiveness to foreign investors. Furthermore, strengthening human resource capacity in the aviation legal sector is essential, particularly through specialized training focused on international leasing, insurance mechanisms, and arbitration-based dispute resolution. In addition, ensuring transparency in the registration of fiduciary guarantees and insurance claim rights with relevant authorities will reinforce legal certainty for all stakeholders. Looking ahead, Indonesia should consider adopting technology-based approaches, such as the use of smart contracts in aircraft leasing, which allow for the automated execution of rights and obligations based on predefined parameters. The implementation of such technologies is expected to reduce administrative disputes and significantly accelerate insurance claim processes.

²⁴ Mahendra, R. (2022). Pengaruh Harmonisasi Regulasi Leasing terhadap Investasi Asing di Sektor Penerbangan. *Jurnal Ekonomi dan Hukum Internasional*, 7(1), 20–38. p. 32. <https://doi.org/10.54321/jehi.2022.07102>

Several countries, such as Singapore and Ireland, have implemented best practices in the management of aircraft leasing, where national regulations support the principles of legal certainty, transparency, and procedural efficiency – all of which could serve as valuable references for Indonesia. Adopting a similar approach would not only enhance the competitiveness of the national aviation industry but also help establish Indonesia's reputation as a credible aircraft leasing hub in Southeast Asia. Investing in legal infrastructure, including the establishment of a specialized aviation court or a commercial court with expertise in aircraft leasing disputes, could serve as a long-term strategy to expedite dispute resolution and foster greater confidence among foreign investors. This is particularly relevant as general courts often lack judges with technical expertise in aviation law or international transactions, thereby increasing the risk of misinterpretation of legal provisions.

The lessee's understanding of insurance responsibilities during the lease period is critically important, as negligence in this regard may result in significant losses for both parties. Therefore, educational initiatives – such as workshops involving aviation law experts, insurance brokers, and relevant regulatory authorities – should be actively promoted to enhance legal and insurance literacy within the aviation sector. With improved legal awareness, the parties will be better equipped to anticipate potential disputes and to draft more precise contractual clauses, ultimately reducing the burden of dispute resolution in the future. Moreover, all provisions within the insurance policy related to the operating lease must be drafted in a clear and detailed manner, in order to prevent ambiguity and ensure well-defined allocation of responsibilities.

Dalam perjanjian operating lease, klausul *force majeure* dan perubahan kebijakan hukum (*change in law*) juga harus diperhatikan dengan seksama, mengingat ketidakpastian global dapat mempengaruhi operasional penerbangan secara langsung. Penyisipan klausul-klausul ini secara rinci dapat memberikan perlindungan tambahan bagi para pihak apabila terjadi peristiwa di luar kendali yang berpotensi mempengaruhi hak klaim asuransi. Sebagai contoh, selama pandemi COVID-19 banyak perjanjian leasing pesawat yang dipaksa untuk direvisi karena ketidakmampuan *lessee* membayar sewa akibat larangan terbang dan penutupan wilayah.

From a national legislative perspective, revisions to Law No. 42 of 1999 on Fiduciary Security should be considered to ensure greater adaptability to the complex and international nature of the aircraft leasing industry. One of the main criticisms of the current fiduciary law lies in its limited capacity to accommodate cross-border movable assets such as aircraft – an area where the Cape Town Convention 2001 provides a more comprehensive legal framework. Therefore, the integration of Cape Town Convention principles into Indonesia's national legal system would significantly strengthen legal

protection for creditors and aircraft owners, while also contributing to an improvement in Indonesia's ease of doing business ranking.

Furthermore, Indonesia should establish an internationally compatible aircraft registration system aligned with the International Registry governed by the Cape Town Convention 2001. Such a system would allow ownership rights and security interests over aircraft to be registered and recognized globally, thereby reducing financing costs and increasing the value of national aviation assets. Empirical evidence shows that in the absence of such a system, there is a significant risk of double financing and fraudulent transfers of ownership, which can severely harm creditors. Therefore, the implementation of this registry system is essential to enhance the confidence of financial institutions and insurers in the investment climate of Indonesia's aviation sector.

The legal reform strategy for aircraft leasing must extend beyond mere regulatory harmonization; it should also encompass institutional capacity-building, the strengthening of legal culture that respects contractual principles, and the development of supporting technologies. In the long term, such reform is expected to foster a modern, transparent, and sustainable aircraft leasing business ecosystem, in line with Indonesia's Vision 2045 to become a developed nation. With a robust legal framework, transparent insurance claims procedures, and efficient dispute resolution mechanisms, Indonesia's aviation industry can grow more resilient to global challenges, expand its international business reach, and generate more employment opportunities in the national aviation sector.

CONCLUSION

In aircraft operating lease agreements, it can be concluded that this leasing mechanism provides an effective solution for airlines to manage their fleets without the burden of large capital investments. From a legal perspective, insurance claims within operating lease agreements play a crucial role in safeguarding the financial interests of both the lessor and the lessee. Law Number 42 of 1999 concerning Fiduciary Security and Law Number 1 of 2009 concerning Aviation form the legal foundation governing the mandatory insurance of aircraft and the assignment of claim rights to lessors or third parties.

However, several key challenges arise in the implementation of such insurance claims. First, there is the potential for ownership disputes over insurance claims between lessor and lessee, particularly when the claims are not secured through fiduciary arrangements. Second, ambiguous contractual clauses in the lease agreement regarding the rights and obligations of each party in submitting claims may lead to prolonged legal disputes. Third, complex claim procedures often delay the resolution process, thereby

disadvantaging the parties involved. Consequently, the inconsistency and overlap of applicable legal norms indicate that the national legal system has not yet adequately addressed the complexities of modern transactions such as aircraft operating leases, thereby increasing legal risks for the contracting parties.

To address these challenges, a comprehensive legal solution is required by drafting clear lease agreement clauses that regulate the priority of insurance claim rights and the procedures for handling losses. Dispute resolution through arbitration serves as an effective option to expedite the process and reduce costs. In addition, the alignment of national regulations with international standards, such as the 2001 Cape Town Convention, is crucial to ensure legal protection and certainty for all relevant parties. The implementation of these measures will facilitate the management of insurance claims in aircraft operating lease agreements, thereby supporting the creation of a more stable and favorable business environment for the aviation sector in Indonesia.

Several recommendations may be proposed to strengthen legal certainty and improve the efficiency of dispute resolution mechanisms in Indonesia. These include the need for further harmonization between national laws-particularly in regard to the renewal and regulation of insurance claims-and international principles as stipulated in the 2001 Cape Town Convention. This convention affirms the priority of rights over insurance claims and provides legal certainty as well as efficient dispute resolution mechanisms in the context of international aircraft leasing transactions.

Furthermore, it is recommended that every operating lease agreement between the lessor and lessee include a specific international arbitration clause-such as those referring to the Singapore International Arbitration Centre (SIAC) or the International Chamber of Commerce (ICC). This ensures a swift, neutral dispute resolution process and reduces the risk of cross-border legal conflicts.

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