

IMPLEMENTATION OF LEGAL PROTECTION FOR SPECTATORS REGARDING THE CANCELLATION OF MUSIC FESTIVAL BY THE ORGANIZERS IN SURABAYA AREA

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Abstract— According to Law No. 8 of 1999, in music festival performances, the position of the audience is as consumers and the position of the organizers is as business actors. In conducting business relationships, organizers are required to protect consumers from all kinds of event problems, including from cancellations. However, in practice, legal protection for spectators has not been implemented optimally. In Surabaya, there were three music events which were canceled at the same time. One of the three has fulfilled the legal protection. The method used is empirical juridical with analytical descriptive method and uses primary and secondary data sources. The results of the research found that the implementation of legal protection for spectators for the cancellation of music festivals in the Surabaya area has been going well, but the benefits for the audience have not been maximized. Obstacles that are felt in its implementation are the lack of funds from the organizers and the lack of initiative from the audience to complain about the actions of the organizers.

Keywords— Consumer Protection, Music Festival, Cancellation, Dispute Resolution.

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I. INTRODUCTION

A music festival is a performance that is held on a large scale and entertains the public by presenting music that is popular with the community at that time. This performance has a creative economic function, namely as a generator of state revenue through the sale of musical performances, as well as being a communication link between nations if there are foreign musicians holding this event in the country [1]. Parties in a music festival performance consist of spectators, organizers, guest stars and supporters. Supporting parties in this case are sponsors or government parties that issue crowd permits.

The audience is a party that plays an important role in organizing a musical performance. This is because for the organizers, an event or music festival can be said to be successful if the audience attending the event are satisfied and leave the venue with minimal complaints. Spectators who wish to enjoy musical performances are required to purchase tickets provided by the organizers. This buying and selling activity creates a legal relationship between the organizer and the buyer because actually the buying and selling relationship itself exists when one party has the initiative to sell its goods and/or services which will be purchased by a second party in accordance with the agreement between the two parties [2].

This legal relationship between the promoter and the audience can be referred to as a Business to Customer relationship. Business to Customer is a legal relationship where buying and selling is carried out between companies and individuals where individuals as consumers take the initiative to buy goods and/or services from companies, and companies are required to be communicative with consumers [3]. Basically in a legal relationship, the decision of each party to make an agreement will lead to a consensual relationship that gives rise to an agreement between the parties even though the goods and/services being traded have not been delivered [4].

Therefore, in this case the audience is a consumer because the audience buys tickets to the organizers and then gets services in the form of musical performances that have been prepared beforehand. The legal relationship between the two parties is the result of an agreement that has occurred. Agreement is an agreement entered into by the parties based on the word agree on the obligation to perform a certain action [5]. The audience has basically agreed to engage with the organizers when the audience has decided to buy tickets for the musical performance. As a consumer, of course, viewers have rights and obligations that must be protected by laws and regulations. This is because the position of the audience as connoisseurs of music services

is very weak so that if a problem occurs in the performance, the audience suffers the most because they do not clearly know the details of the program. This legal protection must cover all forms of losses arising from music performances [6].

Implementation of music festival performances do not always run smoothly. Just like organizing other performances, music festivals are very prone to experiencing several problems, some of which occur on a large scale so that they affect the execution of the event. As a result, not a few organizers took a way out in the form of canceling the music festival performance.

The reasons that can cause the cancellation of music concerts are as follows:

- a. There are no or have not received permits from the authorities, in this case the permits that need to be obtained by an organizer before carrying out a music festival event are permits to hold festivals from the local government, permits to rent event locations from agencies that own the land and permits for crowds from the police
- b. Internal problems from the organizers consisting of unpreparedness for execution by the committee, lack of funds to pay guest stars, rent event locations and take care of all permits and other necessary needs
- c. There are unexpected events that take place before or during the event, such as an outbreak of a disease that appears unexpectedly and a threat to the safety of the audience and the committee on duty

In 2022, in the city of Surabaya to be precise, there will be a cultural performance called the Jatim Fair. This event is an annual event organized by the East Java provincial government to commemorate the anniversary of the city of Surabaya. The event was held in the Grand City Mall area, Surabaya. Jatim Fair consists of several events, namely exhibitions, culinary and music concerts. In terms of holding a music concert, the local municipal government asked for the help of Event Organizer services from PT. Expo Indo in collaboration with the BBO application ticketing platform. PT. Expo Indo then received a big responsibility from the city government to organize music concerts because the city government fully handed over the implementation to the organizers because they were considered experienced in organizing music events.

The Jatim Fair music concert is planned to be held from 7 to 13 October 2023, interspersed with cultural exhibitions and regional culinary treats. Provisions made by the organizers are limiting the capacity of spectators who can be in the venue. The restriction is based on a police order on the requirements for obtaining permits. The reason for limiting spectator capacity refers to the Kanjuruhan incident which claimed many lives which occurred

on October 1, 2022. Therefore the crowd capacity approved at that time was only around 60% to 70% of the venue's capacity.

At the time of implementation, the first day of the event ran smoothly, there were no problems that caused inconvenience, the capacity of the audience. However, on the second day, several spectators who did not have tickets came to the location and forced their way into the venue. The audience came with the aim of buying tickets on the spot or On The Spot, but this could not be done because the tickets were sold out and could only be purchased online through the BBO application. Some of the spectators did not accept the situation that they were not allowed to enter because they did not have tickets, so they used violence and injured the police officers on duty.

Therefore, to prevent more victims and prevent more serious problems such as the Kanjuruhan tragedy and an appeal from the local police, the organizers decided to stop holding the Jatim Fair music concert from 9 October 2022 to 13 October 2022. Announcement of this cancellation was conveyed directly on the Instagram account belonging to partner PT. Expo Indo which is engaged in ticketing, namely @bbo.co.id.

Of course, as a result of the cancellation, the first thing that needs to be done by the organizers is to provide legal protection to the affected audience. Legal protection for viewers can refer to Law Number 8 of 1999 concerning Consumer Protection, hereinafter referred to as the Consumer Protection Law. In this law, there are various kinds of rights and obligations from the organizers and the audience, as well as various principles in consumer protection law to responsibilities imposed on the organizers due to cancellations at music festivals and the like. The Jatim Fair music concert is planned to be held from 7 to 13 October 2023, interspersed with cultural exhibitions and regional culinary treats. Provisions made by the organizers are limiting the capacity of spectators who can be in the venue. The restriction is based on a police order on the requirements for obtaining permits. The reason for limiting spectator capacity refers to the Kanjuruhan incident which claimed many lives which occurred on October 1, 2022. Therefore the crowd capacity approved at that time was only around 60% to 70% of the venue's capacity.

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II. METHOD

The research method used is empirical juridical in nature which analyzes the application of the rule of law by the community [7]. The scope of the research is Civil Law with the branch of Consumer Protection Law. This research was conducted using a statutory and conceptual approach that would examine the relationship between theory and the application of legal protection to spectators for canceling music events in the Surabaya area. This research applies an analytical descriptive research method by reviewing and producing data in the form of statements from respondents or informants who have been researched directly or in writing. The data sources used consist of primary and secondary data sources [8]. Data collection was carried out using interview techniques and literature studies with informants from PT. Expo Indo as the organiser, the East Java Consumer Protection Foundation (YLPK), as well as the Surabaya City Consumer Dispute Settlement Agency (BPSK)

III. RESULT AND DISCUSSION

1. Implementation of Legal Protection for Spectators for Cancellation of Music Festival Events

As a consumer, the audience of a music program has rights and obligations that should be protected by law. In terms, legal protection is an effort to protect the human rights of legal

subjects that are attached to him in order to avoid something that causes these human rights to not be fulfilled [9]. Article 28D Paragraph (1) states that all levels of society have the right to be recognized and are entitled to guarantee equal protection before the law. Legal protection can be said as an effort to prevent actions that harm or injure the rights attached to legal subjects so that in obtaining their rights, the protected party is free from arbitrary treatment. Several sectors that receive legal protection and have been regulated in laws are the consumer sector, intellectual property rights, labor and so on.

According to Article 1 Paragraph (1) of the Consumer Protection Law, the definition of the term consumer protection itself is all efforts in the context of protecting consumers and providing guarantees of legal certainty that will be upheld. The following are some of the conditions that become the scope of consumer protection:

- a. Protection against unexpected conditions if the goods or objects received are not in accordance with the agreement of the parties
- b. Protection against unexpected conditions if there are purchase terms that are detrimental to consumers.

In carrying out consumer protection, of course it is necessary to be based on the principles contained in Article 2 of the Consumer Protection Law. The principles of consumer protection consist of 5 (five) types of principles, including the following:

1. Benefit Principle

This principle has the intention that consumer protection seeks to provide protection to the parties, and the benefits provided must be maximized so that the interests of consumers and business actors can be met equally.

2. The Principle of Balance

This principle has the intention that consumer protection must provide balance and equality evenly in material and spiritual elements in the interests of consumers, business actors and the government.

3. Principle of Justice

This principle has the intention that the implementation of consumer protection must provide opportunities for the community to contribute optimally, as well as provide opportunities for parties to obtain their rights as a whole and carry out all their obligations in full

4. Principle of Legal Certainty

This principle has the intention that the implementation of consumer protection must be obeyed by the parties, namely consumers and business actors, in order to obtain justice from the state whose job is to guarantee legal certainty for both parties.

5. Principles of Consumer Security and Safety

This principle has the intention that the application of consumer protection must guarantee safety and security in terms of using and utilizing goods or services that are objects of consumption to consumers.

Based on the similarity of the substances they contain, the 5 (five) principles are then narrowed down again and grouped into 3 (three) principles, namely:

1. The principle of expediency, includes the principle of benefit as well as the principle of consumer security and safety
2. The principle of justice, includes the principle of justice and the principle of balance
3. The principle of legal certainty [10]

The principles of consumer protection must be fulfilled by both parties so that the implementation of these principles can run well so that the objectives of enforcing consumer protection law can be felt by the parties concerned. In applying these principles, of course, both consumers and business actors must be able to fulfill their respective rights and obligations in full without any deficiencies. The rights and obligations of the parties are regulated in the Consumer Protection Act, namely in Article 4, Article 5, Article 6 and Article 7.

In the case of canceling the Jatim Fair music concert, PT. Expo Indo to provide legal protection for affected audiences. As a consumer, the rights that should be obtained when experiencing problems in a service are to get the best possible legal protection. The legal protection that is applied does not only protect the audience physically, but also other rights that are not fulfilled as a result of the cancellation of music festivals [11]. Legal protection for a consumer is divided into 2 (two), namely preventive legal protection and repressive legal protection.

Preventive legal protection focuses on protection efforts with the aim of avoiding violations or disputes. Usually this effort can be referred to as an effort to prevent a violation of the law. Preventive legal protection is provided by the government by setting certain limits in the implementation of legal actions that originate from laws and social norms. Meanwhile, repressive legal protection focuses on protection efforts with the aim of dealing with a problem or dispute as a result of a violation of legal rights. Usually this effort can be referred to as an effort to resolve disputes over the rights of legal subjects. This form of protection is usually

carried out by the court in order to give punishment to the offenders. There are also several special agencies that have the task of carrying out settlement of disputes that occur.

Legal protection efforts given to spectators in this case are not only preventive efforts or preventive efforts made by organizers or promoters, but also include repressive efforts or handling efforts that should have been prepared by organizers/promoters/Event Organizers (EO) so that does not cause substantial losses in a short period of time [12]. Therefore, according to Mr. Novry Hetharia, PT. Expo Indo complies with applicable legal regulations that if there is a problem at the Jatim Fair music concert event causing a cancellation in its implementation, PT. Expo Indo provides legal protection both preventively and reciprocally. In terms of providing legal protection to the audience, the type of legal protection that can be given directly is repressive protection because repressive legal protection is compensatory, in which case if there is a cancellation of a music program, compensation efforts take precedence.

Repressive legal protection carried out by PT. Expo Indo to spectators who have been adversely affected by the cancellation of the Jatim Fair music concert is to provide compensation in the form of refunds or refunds for tickets that have been paid. The refund is made within 1 (one) month since the announcement of the cancellation of the music concert on October 9, 2022. The refund of the ticket is carried out through the intermediary of the BBO application which is a site for spectators to get tickets online. The required return mechanism is that the organizer will return the ticket money to each BBO Pay account that has been recorded, then the return process is carried out in stages and alternately. Later the balance on BBO Pay can be transferred back to each viewer's bank account. Some viewers got the refund shortly after the announcement of the cancellation, about 1 (one) week after.

Due to the cancellation of the Jatim Fair music event, PT. Expo Indo provides many considerations related to preventive legal protection efforts. Preventive protection efforts are carried out in the hope of avoiding the cancellation of similar music festival events. Mr. Novry said that due to the cancellation of the Jatim Fair music concert, the organizers were more thorough in conducting research before conducting a music concert, such as choosing guest stars to fill in on the event, what are the characteristics of the fans of these guest stars, what are the characteristics of the audience for music concerts in the region mentioned, the capacity of the implementation location and various other conditions that must be considered. Because each criterion cannot apply the same to one another.

Apart from the Jatim Fair music event, there are at least 2 (two) musical performances which were simply canceled in Surabaya in 2022. The cancellations of these events occurred in close proximity and had several reasons that were almost the same. This shows that the organizers still view the position of the audience as a weak party because it is so easy to cancel a music event and sacrifice the audience. Although several organizers have provided repressive or preventive legal protection, there are still many cases of canceling concerts that are not accompanied by the provision of compensation and these mistakes continue to be made repeatedly. As a staff member of the East Java Consumer Protection Institute, Mr. Mukharrom Hadi said that until now the legal protection for spectators from all the consequences arising from various problems in a performance has not been implemented properly. He really appreciated the legal protection measures taken by PT. Expo Indo because this action is one of the initial actions that can be emulated by other organizers if they have the same problem.

Mr. Kurniawan as a staff member of the Surabaya City Consumer Dispute Settlement Agency emphasized that an organizer must fulfill the ethics and obligations as a business actor for performing his music services in accordance with what is stated in Article 7 of the Consumer Protection Law. Even though it is only limited to music events, in the event there are parties who must be protected from all kinds of risks that will or have arisen, namely the audience. So in practice, the audience must be protected like a consumer in buying and selling activities in general.

If there are organizers or promoters who deliberately do not carry out legal protection for spectators in accordance with applicable positive law, then the organizers have violated the principles of consumer protection, especially the principle of benefit, the principle of justice and the principle of legal certainty. These organizers cannot provide benefits to consumers who buy music concert services. This causes losses for the audience because in addition to their interest in obtaining music concert services they are not fulfilled, the compensation rights that should be obtained from the organizers are also not fulfilled. This creates legal uncertainty for the audience because there is no good faith from the organizers in fulfilling their rights and obligations in a balanced manner.

1. Obstacles in the Implementation of Legal Protection for Spectators for Cancellation of Music Festival Events

In the implementation of legal protection for the cancellation of an event or musical performance, of course there are many obstacles experienced by the organizers, both from the side of the organizers in carrying out legal protection and from the side of the audience

who get legal protection. The obstacles experienced by PT. Expo Indo in providing legal protection to the audience for the cancellation of music events is limited to the refund of audience ticket money. This is because the PT. Expo Indo suffered losses as a result of the cancellation of the Jatim Fair music concert. Mr. Novry Hetharia stated that the total losses experienced by PT. Expo Indo in the amount of IDR 2,000,000,000 (two billion rupiah). The loss was caused because the organizers had paid in full and in full for the facilities used in organizing the East Java music concert, payment for guest stars who attended the event, payment of ticket taxes to the local government and payment of royalties to songwriters, as well as payments for cooperation with the BBO.

Even so, the PT. Expo Indo remains committed to resolving and providing the rights of viewers who were harmed even though they suffered heavy losses. This loss is already a responsibility and obligation that must be fulfilled. It cannot be denied that even though the event went well, there were still losses incurred from the organizer's side. Therefore, PT. Expo Indo continues to ensure that all spectators receive equal legal protection even though the organizers have suffered huge losses in carrying it out.

From the East Java YLPK side, Mr. Mukharrom Hadi stated that so far the East Java Consumer Protection Institute Foundation has not had the opportunity to provide assistance on the issue of canceling music concerts. This is because there are still very few victims or spectators who are affected and disadvantaged who want to voluntarily report the problem to YLPK East Java. The reason stated by Mr Hadi was that the viewers who were harmed may not have wanted to report the problem from the start because the audience did not want to prolong the problem and did not want to get too complicated..

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may not have wanted to report the problem from the start because the audience did not want to prolong the problem and did not want to get too complicated.

The same thing was also expressed by Mr. Kurniawan as one of the accompanying staff at BPSK Surabaya. Requests for requests for assistance in cases of default or unlawful acts by the organizers never reached directly to BPSK staff, instead the staff listened to the matter from mouth to mouth. Mr. Kurniawan regrets the lack of legal awareness on the part of the audience who may not know in detail the rights he has as a consumer according to the Consumer Protection Act. However, the BPSK also cannot fully blame the consumers because each of them must have reasons for not continuing the existing problem through legal channels. One of the most basic reasons is that the losses suffered from canceling music concerts are not as big as other consumer problems. This is what hinders law enforcement officials, especially BPSK, in moving to protect the rights of spectators so that the same incident does not happen again

Therefore, to overcome all the obstacles experienced in implementing legal protection for viewers, it is necessary to take further action and provide an understanding to the viewers regarding their rights as consumers. Further actions can be carried out by agencies and government authorities with the aim that no similar incidents will occur in the future. The authorities in resolving consumer problems other than BPSK are the local District Court.

In accordance with Article 45 Paragraph (2) of the Consumer Protection Law, consumer dispute resolution can only be done in 2 (two) ways, namely through litigation and non-litigation. The two forms of dispute resolution have the same end result, namely having to provide compensation for business actors if it is proven that they have committed a harmful act to consumers, and provide other penalties in accordance with the actions taken.

1. Litigation

If the consumer or related parties wish to resolve the dispute through the courts, then the said party can file a lawsuit properly to the general court in the same area or the nearest area. Usually the litigation settlement process is carried out in business sector disputes to get the fairest results for the parties because each point of view will be reviewed from a legal perspective [13]. Parties entitled to file a litigation lawsuit are consumers who have suffered losses, consumer groups with the same interests, non-governmental consumer protection agencies (LPKSM), and the government or related agencies [14]. The lawsuits that will be filed

can then be classified according to the number of parties making the lawsuit. This group consists of 3 (three) types:

a. Small Claims

Referred to as a Small Claim Lawsuit is if the lawsuit is filed by a consumer with a small scope of dispute and does not have a major impact

b. Class Actions

Class action lawsuits are lawsuits filed by several consumers who form a group with the same dispute

c. Legal Standing

This type of lawsuit is filed by agencies affected by actions that harm business actors and the disputes that occur are major disputes and involve many parties [15].

2. Non Litigation

This settlement is carried out if there are consumers who do not want to resolve disputes through legal channels. Consumers can choose an amicable non-litigation settlement between two parties, or a non-litigation settlement through the relevant agency authorized to resolve disputes outside the court. Dispute resolution outside the court is usually chosen by the community because the process is not complicated and does not cost a lot of money.

a. If the consumer chooses to resolve it amicably by the parties without interference from anywhere, then this is permissible as long as it does not conflict with what has been regulated in the Consumer Protection Act.

b. If consumers wish to resolve disputes with the help of an authorized body, then according to the Consumer Protection Law, these interested parties can submit complaints to institutions that have been designated as institutions for the protection and settlement of consumer disputes.

PT. Expo Indo is of the opinion that in carrying out its obligation to comply with the legal protection for cancellation of music festival events in the form of ticket refunds, of course there are several possibilities that the organizers missed refunding the tickets of some spectators. To ensure the fulfillment of audience rights, Mr. Novry Hetharia stated that if there are spectators who have not received legal protection in the form of refunds for tickets, these spectators can ask the organizers to be held accountable through the BBO application. The conditions that apply are that the audience can show legal and valid evidence that they have purchased tickets through the BBO application.

As parties providing assistance to consumers, Mr. Mukharrom Hadi and Mr. Kurniawan provide almost the same solution. As a non-governmental organization, of course YLPK East Java is always open to all kinds of reports that consumers want to make, it doesn't matter whether the loss is big or small, as long as the loss is the responsibility of the music show service provider and does not fulfill the rights of the audience as a consumers, these problems will be given a solution and fully facilitated by YLPK. Because YLPK is a non-governmental organization recognized by the government to realize consumer protection efforts, in accordance with Article 44 Paragraph (2) of the Consumer Protection Law regarding non-governmental organizations.

Apart from having YLPK as a party that plays a role in efforts to protect consumers, there is also a consumer dispute settlement agency that is recognized by the government, namely BPSK. BPSK is the party authorized to resolve consumer disputes independently outside the court. BPSK's authority has been regulated in the Consumer Protection Law. In resolving cases, BPSK is based on the Consumer Protection Law and other regulations relating to the issues being processed. In terms of the problem of canceling the music festival event, Mr. Kurniawan explained that the process adopted and assisted by the Surabaya City BPSK was an out-of-court settlement.

If the audience or the parties to the dispute decide that the dispute process should proceed to the courts, in order to make time, money and effort more efficient, the audience is expected to file a complaint using the Class Action system. Class action lawsuits are lawsuits filed by a person or more representing a large group of people who have similarities in terms of interests in a particular case or problem without having to mention one by one the individual represented. If you want to file a Class Action lawsuit, the viewers who are aggrieved can gather other spectators who are also the party that loses out on the actions of the organizer. The demands given are usually the demands of the majority who are harmed and urgent needs that must be met by the organizers. So Class Action lawsuits can be filed by spectators in accordance with the provisions of Supreme Court Regulation Number 1 of 2022 concerning Class Action Lawsuit Events. According to the PERMA, notification will be made through print media, government offices and courts, or directly to group members.

IV. CONCLUSION

The implementation of legal protection for the cancellation of music festival events in the Surabaya Region has not fully run optimally. In the case of the cancellation of the Jatim Fair music concert, the organizers have provided an example of properly implementing legal protection for consumers. However, this has not become a lesson for promoters or other music event organizers in fulfilling the rights of viewers as consumers. There were 3 (three) music events that were canceled close together in Surabaya. This event proves that legal protection is still not evenly applied to spectators. Until now, YLPK East Java and BPSK Surabaya have not received any complaints regarding the cancellation of the music event.

Obstacles that are felt in implementing legal protection for spectators are the limited funds owned by event organizers or promoters and the absence of a sense of initiative on the part of the audience to report legal actions carried out by the organizers because they consider that legal or litigation processes take up a lot of time, money and effort. The legal remedies that can be taken by the audience are as soon as possible asking for help from the parties that have been facilitated to assist consumer problems, namely YLPK or asking for non-litigation legal assistance from the local BPSK, or you can also file a Class Action lawsuit. With the obstacles encountered in the implementation of legal protection, of course this must be material for review for law enforcers in providing the best possible protection to viewers so that the position of the audience as a consumer is not seen as weak if things that are detrimental and do not fulfill their rights occur.

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