

# Legal Sanctions for Umrah Travel Agencies that Violate Agreements and Law Enforcement Constraints

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## ARTICLE INFO

### **Article history:**

Received 6 October 2022

Revised 9 November 2022

Accepted 2 December 2022

### **Key words:**

Legal sanctions,  
Umrah travel agencies,  
Agreements,  
Consumer protection,  
Supervision,  
Constraints,  
Congregations.

## ABSTRACT

*This study discusses the legal sanctions applied to Umrah travel agencies that violate agreements with congregations and the constraints faced in applying these sanctions. Umrah travel agencies that violate their obligations can be subject to civil, criminal, and administrative sanctions, with the legal basis contained in the Consumer Protection Law Number 8 Year 1999, the Civil Code of Indonesia (KUHPerdata), and the Criminal Code of Indonesia (KUHP). The application of these sanctions faces a number of constraints, including weak supervision of travel agencies, ignorance of congregations about their rights, and vagueness in existing regulations. It is important to improve supervision and refine existing regulations so that legal sanctions can be applied more effectively. This study provides valuable insights for the development of consumer protection systems in the umrah travel industry and the importance of accessibility to justice for aggrieved congregations.*

## INTRODUCTION

The Umrah travel industry in Indonesia is growing, especially with the increasing number of congregations who want to perform Umrah every year. Along with this development, many Umrah travel agencies offer services with various packages and facilities. Some travel agencies often fail to fulfill their obligations to congregations, both in terms of service quality and timeliness of implementation. Disputes between travel agencies and congregations often lead to violations of agreements that have an impact on the rights of the congregation. In this case, an analysis of how the legal system regulates sanctions against travel agencies that violate agreements is essential to ensure the protection of consumer rights in this industry (Korayan & Djayaputra, 2018).

The vagueness of the legal sanctions applied to Umrah travel agencies that violate the agreement is a fundamental problem (Yuliza & Hermansyah, 2021). Many congregations feel harmed but have difficulty obtaining justice because the regulations have not provided clarity in terms of legal application (Mukhlis, 2018). Fraudulent practices or defaults such as delays in departure, inappropriate facilities, and failure to depart often occur without comparable legal action. This raises quite serious issues,

especially related to the transparency and accountability of travel agencies that are directly related to consumer satisfaction. Several studies mention that the lack of strict regulations is the cause of Umrah travel agencies often not getting sanctions in accordance with the violations committed.

While regulations are in place regarding the implementation of the Umrah worship, many travel agencies ignore these rules. Some bureaus tend to be more concerned with profits than complying with their contractual obligations towards congregations. This attitude shows an imbalance between commercial orientation and social responsibility that should be upheld in organizing Umrah worship. This adds complexity to law enforcement efforts against Umrah travel agencies. In many cases, travel agencies do not provide proper compensation or liability, despite defaults such as failure to depart, facilities that do not match the brochure, or unilateral schedule changes. Uncertainty regarding the mechanism for sanctions against travel agencies that violate the agreement causes many congregations to feel that they do not get their rights, such as refunds or replacement of facilities promised in the umrah package (Ariani, 2019). The lack of an effective system makes law enforcement weak and does not provide a deterrent effect.

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The study of the application of legal sanctions for Umrah travel agencies that violate the agreement is very relevant. Violations by Umrah travel agencies not only have an impact on material losses, but also emotional and spiritual for pilgrims who have placed great hopes on the worship trip. Legal studies become an evaluative and solution tool to assess the effectiveness of the existing regulatory system and to encourage legal reforms that are more responsive to the dynamics of the field. Through an in-depth literature study, it can be understood to what extent Indonesian law can provide protection for congregations who are harmed by the negligence of travel agencies. For example, laws and regulations related to consumer protection and business agreements, such as Law Number 8 Year 1999 concerning Consumer Protection, are the basis for regulating the rights and obligations between travel agencies and Umrah congregations. The implementation of these laws in practice often faces various challenges.

Umrah travel agencies that do not comply with agreements with congregations often result in large material and immaterial losses. One of the main problems that arises is that there is no clarity regarding the legal mechanisms that can be applied to take action against travel agencies that violate the agreement. Many congregations do not know where to report, who is responsible, and what procedures to follow to get their rights. Congregations often find it difficult to obtain their rights, be it in the form of compensation or fulfillment of services as promised. Many cases are ignored or resolved without a clear legal process. This shows the weakness of the legal protection system that should provide security and certainty for consumers of Umrah services. In the long-term, this creates an unhealthy climate in the umrah travel industry, where fraudulent bureaus do not receive appropriate sanctions, while consumers continue to be in a vulnerable position.

Another problem is the lack of supervision of Umrah travel agencies in Indonesia. While regulations governing the existence of Umrah travel agencies exist, supervision of the implementation of agreements is often not maximized. This has led to many agencies operating without a license or without meeting applicable legal requirements. These bureaus often do not provide transparent information to prospective pilgrims and do not guarantee certainty of departure or quality of service. The lack of oversight allows them to violate agreements – through cancellations, facility changes, or fraud – without clear legal consequences. This vagueness causes legal uncertainty for consumers and creates a gap to violate the agreement to the detriment of the congregation.

It is important to study this issue in order to provide a deeper understanding of the regulation of legal sanctions against Umrah travel agencies. With a systematic review, shortcomings in existing regulations and law enforcement can be identified, as well as how they directly impact the protection of consumer rights. Given the high number of umrah congregations each year and the harm that can be caused by violation of agreements, this study has high relevance in creating a fairer and more transparent system.

This study aims to analyze the application of legal sanctions against Umrah travel agencies that violate agreements with congregations, as well as identify various factors that affect the implementation of these sanctions. With this study, it is hoped that a more comprehensive understanding of the legal mechanisms that can be applied to protect consumer rights in the umrah travel industry can be obtained, as well as efforts to improve the effectiveness of law enforcement in this field.

## RESEARCH METHOD

This study uses a literature study approach with the aim of exploring various relevant literature sources related to juridical analysis of legal sanctions for Umrah travel agencies that violate agreements with congregations. This approach allows researchers to examine various legal theories, laws and regulations, as well as previous studies that discuss the rights and obligations in business agreements, especially those involving Umrah travel agencies and consumers. Through the collection and analysis of various references from books, journals, articles, and other legal sources, this study aims to provide a deeper understanding of the legal framework governing sanctions for Umrah travel agencies that violate agreements. For example, literature discussing consumer protection law and the implementation of legal sanctions in business practice can provide a solid theoretical foundation for this study (Marzuki, 2010).

This research method also focuses on analyzing applicable regulations, such as Law Number 8 Year 1999 concerning Consumer Protection and other relevant regulations governing the relationship between service providers and consumers. The literature used in this study will be analyzed qualitatively by identifying legal issues related to the application of sanctions for travel agencies that violate the agreement. The analysis process also involves a review of relevant legal decisions or jurisprudence, to provide an overview of how sanctions are applied in similar cases. With this approach, it is hoped that this study can provide useful insights for the development of consumer protection law, particularly in the umrah travel industry.

## **RESULT AND DISCUSSION**

The implementation of Umrah worship in Indonesia involves many parties, one of which is a travel agency that plays an important role in facilitating the departure of pilgrims. It is not uncommon for cases to occur where travel agencies violate agreements with congregations, both in terms of service and fulfillment of promised rights. In this context, it is important to examine the extent to which legal sanctions can be applied against travel agencies that do not fulfill their obligations in accordance with the agreed provisions. This study aims to explore more deeply the application of legal sanctions stipulated in the applicable regulations in Indonesia, with a focus on protecting the rights of congregations as consumers who are harmed by negligence or violations committed by travel agencies.

In the analysis process, it was found that there are various legal mechanisms that can be applied against travel agencies that violate the agreement, ranging from civil sanctions to criminal sanctions. The application of these sanctions does not always run smoothly due to various constraints, both in terms of weak supervision, unclear regulations, and the lack of understanding of the congregation about their legal rights. This has resulted in many cases of violations not being resolved legally and perpetrators not receiving punishment commensurate with their actions. It is important to further understand the challenges that exist and what solutions can be sought to improve the consumer protection system in the umrah travel industry. Through a comprehensive approach, it is hoped that a legal system will be created that is able to optimally protect pilgrims and suppress irregular practices in the Umrah travel industry.

Special Hajj and Umrah organizing agencies that fail to dispatch prospective congregations in accordance with the agreement can be held liable for defaults that have been made. In this case, the travel agency is considered to have violated the obligations stated in the contract with the congregation, so it can be subject to legal sanctions. Liability against business actors can be applied when there is a lawsuit against a person or legal entity that commits an unlawful act. Furthermore, this responsibility is imposed without considering the element of fault in the act. Business actors can be held liable even if their actions are not committed intentionally and do not contain negligence, imprudence, or impropriety. Umrah travel agencies that commit default must still be held accountable for the consequences of their failure to fulfill the agreement, either with or without elements of fault in their actions.

Liability regulated in Article 1367 of KUHP is a legal concept that has certain conditions to be applied. First, there is an act committed by the actor, which can be either active (doing something) or passive (not doing something that should be done). These actions can vary, ranging from negligence to deliberate actions, which result in the loss of another party. There is an element of compensation, where the loss suffered by the victim becomes the basis for the application of liability. These losses include both material and immaterial losses, where immaterial losses, such as psychological suffering or tarnished honor, are also valued in monetary terms, as recognized in jurisprudence. In the context of Umrah travel agencies, this liability can be applied if the agency is proven to be negligent or deliberately commits actions that harm the congregation, such as failing to depart without a valid reason or providing services that are far from the agreement. This article provides a strong legal basis for victims to claim compensation for unlawful acts committed by travel agencies.

Furthermore, the act committed must be against the law. This "against the law" element, which has been broadly defined since 1919, covers a variety of actions that violate applicable laws, harm other people's rights guaranteed by law, conflict with legal obligations, or conflict with the norms of decency prevailing in society. Finally, the condition that must be met is the existence of a causal relationship between the act committed and the loss incurred. In this case, there must be a clear cause-and-effect relationship between the act committed and the loss suffered. Any causes that cause the loss is considered a factual cause, as long as the loss would not have occurred in the absence of the cause. By fulfilling all these conditions, an act can be legally accountable as a tort worthy of sanction.

In the context of the implementation of Umrah worship in Indonesia, Umrah travel agencies that violate agreements with pilgrims can be subject to various legal sanctions stipulated in the applicable laws and regulations. These sanctions aim to protect the rights of consumers, in this case umrah congregations, as well as ensure that travel agencies carry out their obligations in accordance with the agreed provisions. This protection is important because umrah pilgrims are often ordinary people who do not necessarily understand legal procedures or have the ability to fight for their rights independently. Based on Law Number 8 Year 1999 concerning Consumer Protection, any violations committed by service providers to consumers, including Umrah travel agencies, may be subject to administrative or criminal sanctions, depending on the type of violation that occurs.

Article 4 of the Consumer Protection Law states that consumer rights that must be protected include the right to obtain clear and correct information about the services provided, the right to obtain comfort, security, and safety in using these services, and the right to obtain compensation in the event of a loss. If the Umrah travel agency violates the agreement that has been made with the congregation, such as not providing the promised facilities or not carrying out the trip according to the schedule, then the congregation has the right to claim compensation. Umrah travel agencies proven to have violated this provision may be subject to sanctions as stipulated in the Consumer Protection Law. The sanctions given can be in the form of refunds or compensation for material losses suffered by the congregation due to the violation (Ritonga & Nadirah, 2022). Even in certain cases that are severe or systematic, the bureau may be subject to additional sanctions in the form of revocation of business licenses or criminal sanctions if proven to have committed fraud or gross negligence.

Violation of the agreement can also be regulated in KUHPerdata, especially in the case of agreements between Umrah travel agencies and congregations which are considered valid agreements. The KUHPer regulates the rights and obligations of the parties to a contract, including the legal consequences in the event of a breach of the agreement. In Article 1238 of KUHPer, it is stated that if one party does not fulfill its obligations in accordance with the agreement, the injured party has the right to demand the implementation of the agreement or cancellation of the agreement along with compensation. If the Umrah travel agency fails to fulfill its obligations, then the congregation can file a civil lawsuit to the court to request the fulfillment of rights or compensation in accordance with the previously agreed agreements. Understanding the provisions in the KUHPer is very important as an effort to protect the law against consumers of Umrah services so that they are not harmed unilaterally.

The application of criminal sanctions against Umrah travel agencies that violate agreements with congregations is also possible if there are indications of fraud or other unlawful acts. For example, if the travel agency deliberately deceives the congregation by providing incorrect information or misappropriating the congregation's funds, then criminal sanctions can be imposed in accordance with the provisions in KUHP. Article 378 of the KUHP regulates fraud that can be imposed on perpetrators who intentionally provide false information or deceive other parties to obtain unlawful gain. In this case, the aggrieved congregation can report the travel agency to law enforcement officials for investigation and proof.

Civil and criminal sanctions, administrative sanctions can also be imposed on Umrah travel agencies that violate the agreement. These administrative sanctions are usually in the form of revocation of operational licenses or temporary suspension of the travel agency's business activities (Taufiq et al., 2022). Supervision of Umrah travel agencies in Indonesia is carried out by the Ministry of Religious Affairs and the Ministry of Trade Indonesia, which are authorized to license operations and supervise the implementation of Umrah worship. In the event that the travel agency is proven to have violated the agreement with the congregation, the relevant agencies can impose administrative sanctions in the form of revocation of business licenses, so that the travel agency can no longer carry out business activities (Korayan & Djayaputra, 2018).

In the application of legal sanctions against Umrah travel agencies that violate the agreement, there are several constraints that are often faced. One of the main constraints is the lack of effective supervision of Umrah travel agencies operating in Indonesia. While regulations governing the implementation of Umrah worship are in place, supervision of travel agencies is often not maximized. Many travel agencies operate without licenses or with licenses that are not regularly updated, making it difficult to take action against agencies that violate agreements with congregation. This irregularity in licensing increases the risk of unprofessional business practices and harm to congregations. Lack of resources and coordination between authorized agencies are also factors that hinder effective supervision. This condition causes Umrah travel agencies that violate agreements to often escape legal sanctions, so that consumer protection becomes less than optimal.

Umrah travel agencies often have a strong position in terms of legality and resources, while congregations as consumers tend to lack understanding of their legal rights (Mukhlis, 2018). Many congregations feel that they do not know how to claim compensation or file a lawsuit against a travel agency that violates the agreement. This is exacerbated by pilgrims' ignorance of applicable regulations and complicated legal processes (Ramadhani et al., 2021). The lengthy and complicated legal procedures, the costs involved, and the time required often discourage or even discourage people from continuing with the legal process. Congregations often feel there is no recourse to justice, even though they have been harmed by a travel agency that has not fulfilled its obligations. This creates a serious imbalance between travel agencies that have legal power and pilgrims who are weak in knowledge and resources.



Another constraint is the lack of clarity regarding the mechanism for applying strict and clear sanctions. While several regulations exist on consumer protection and business agreements, there is often no enforcement in their implementation. For example, despite regulations on compensation and refunds in cases of breach of agreement, Umrah travel agencies still often ignore these obligations without adequate legal action. As a result, legal mechanisms that are supposed to protect congregations become ineffective and lose their force. Many congregations find it difficult to assert their rights, especially if the travel agency is uncooperative or avoids amicable dispute resolution (Taufik, 2021). This situation points to the need for a more responsive reform of the legal system, including the simplification of the claims process, the strengthening of supervisory institutions, and the provision of affordable legal aid for ordinary consumers so that their protection is truly guaranteed.

The problem of legality and supervision, the vagueness of the laws and regulations governing Umrah travel agencies is also one of the constraints. While several regulations governing Umrah travel services exist, such as Law Number 13 Year 2008 concerning Hajj and Umrah Travel, as well as regulations related to consumer protection, the existing regulations still need improvement in terms of applying firmer and more concrete sanctions. Some legal aspects related to the application of sanctions for travel agencies that violate the agreement are still not regulated in detail, resulting in legal uncertainty in dispute resolution between travel agencies and congregations (Yuliza & Hermansyah, 2021). Many cases of violation of agreements end up without a clear legal settlement due to the absence of a strong legal basis to effectively take action against the agencies. Regulatory improvements are urgent so that every aspect of the law can be implemented fairly, firmly, and transparently to protect Umrah congregations from harmful practices.

In this case, there needs to be an effort to increase law enforcement and improve regulations that can regulate more clearly and firmly the rights and obligations of each party in the agreement (Arif, 2019). Strengthening supervision by relevant agencies, such as the Ministry of Religious Affairs, the Ministry of Trade, and the National Consumer Protection Agency (BPKN), is also needed so that Umrah travel agencies that violate the agreement can be given sanctions in accordance with existing provisions. Socialization to the public regarding their rights as consumers also needs to be carried out so that congregations better understand how to claim their rights in the event of a violation (Ariani, 2019).

A fast, simple, and low-cost judicial system in resolving disputes between travel agencies and congregations also needs to be considered. The justice system should be designed to be more inclusive and friendly to ordinary consumers, especially umrah congregations who are victims of violations. This will make it easier for the congregation to file claims without being hampered by convoluted procedures or high costs. A responsive and efficient system can also encourage travel agencies to better adhere to agreements and increase their moral and legal responsibility towards consumers. Increased accessibility to legal services for congregations will provide a better sense of justice and minimize the potential for abuse by irresponsible travel agencies.

More effective dispute resolution, both through civil and administrative channels, will have a positive impact on the development of the Umrah travel agency industry in Indonesia. With a clear and firm settlement mechanism, the parties involved, both travel agencies and congregations, will feel more protected. A well-run legal process will ensure that the rights of congregations as consumers are respected, as well as ensure accountability from travel agencies in fulfilling their obligations. As a result, a healthier business environment is created, with higher levels of consumer satisfaction. Compliance with the law and consumer protection will increase public confidence in the organization of Umrah in Indonesia. This will have an impact on increasing congregation satisfaction, strengthening the image of a responsible travel agency, and creating an industry ecosystem that is more transparent, integrity, and service quality-oriented.

The application of strict sanctions against Umrah travel agencies that violate the agreement will have a deterrent effect and encourage professionalism in the industry. When travel agencies know that violation of the agreement can lead to severe legal sanctions, they will be more careful and responsible in running their business. This will not only improve the quality of services provided to congregations, but will also improve the image of the Umrah travel agency industry as a whole.

With the creation of a transparent and professional business climate, the congregation's trust in the Umrah travel agency will be maintained. This trust is very important, because Umrah is a highly valued worship in Islam, and every congregation certainly wants a worship experience that is smooth and in accordance with expectations. With tighter supervision and clear sanctions, it is hoped that the Umrah travel agency can continue to adapt and improve service quality, so that all parties involved can benefit.

## CONCLUSION

Umrah travel agencies that violate agreements with pilgrims can be subject to strict legal sanctions, both in the form of civil, criminal and administrative sanctions. The sanctions aim to provide protection to consumers and uphold justice for the harmed Umrah congregations. Although there are various regulations governing violations of agreements in the umrah travel industry, the application of sanctions is still constrained by the problem of weak supervision, ignorance of pilgrims of their rights, and lack of clarity in the implementation of existing regulations. Increased supervision of umrah travel agencies, as well as more effective socialization of consumer rights, are important steps in ensuring that legal sanctions can be applied optimally. Increased public legal awareness can be obtained and Umrah travel agencies will be encouraged to be more compliant with regulations and agreements that have been mutually agreed upon.

## REFERENCES

- Ariani, E. F. (2019). *Perlindungan Hukum terhadap Pembatalan Keberangkatan Calon Jamaah Umrah Ditinjau dari Undang-Undang No 8 Tahun 1999 tentang Perlindungan Konsumen (Studi Kasus PT. Utsmaniyah Hannien Tour)*. *Theses*, Universitas Islam Negeri (UIN) Syarif Hidayatullah Jakarta.
- Arif, F. M. (2019). *Penyelenggaraan Ibadah Umroh Berbasis Maslahat*. *Al-Amwal: Journal of Islamic Economic Law*, 4(1), 22-39.
- Korayan, J., & Djayaputra, G. (2018). *Tanggung Jawab Hukum Biro Perjalanan Umrah terhadap Calon Jamaahnya*. *Jurnal Hukum Adigama*, 1(1), 1529-1560.
- Marzuki, P.M. (2010). *Penelitian Hukum*. Kencana Prenada Media Grup.
- Mukhlis, S. (2018). *Perlindungan Hukum Jamaah Umrah dalam Penyelenggaraan Perjalanan Ibadah Umrah*. *Asy-Syari'ah*, 20(1), 49-58.
- Ramadhani, M., Habib, M. A. F., & Fitri, A. (2021). *Pelanggaran Hukum Persaingan Usaha dalam Mekanisme Wholesaler Penjualan Tiket Penerbangan Ibadah Umrah*. *Journal of Islamic Tourism Halal Food Islamic Traveling and Creative Economy*, 1(2), 171-187.
- Republik Indonesia. (1999). *Undang-Undang Nomor 8 Tahun 1999 tentang Perlindungan Konsumen*. Lembaran Negara Republik Indonesia Tahun 1999 Nomor 22. Sekretariat Negara, Jakarta.
- Ritonga, S., & Nadirah, I. (2022). *Penyelesaian Sengketa Wanprestasi oleh Travel Umroh Atas Jamaah Haji Furoda/Umroh di Indonesia*. *Jurnal Moralita: Jurnal Pendidikan Pancasila dan Kewarganegaraan*, 3(2), 62-76.
- Taufik, F. (2021). *Taktik Penyidik Ditreskrimum Polda Sumbar dalam Mengungkap Modus Operandi Tindak Pidana Penipuan oleh Travel Biro Perjalanan Haji Dan Umroh*. *UNES Journal of Swara Justisia*, 5(2), 117-123.
- Taufiq, R., Fahmi, F., & Afrita, I. (2022). *Akibat Hukum bagi Biro Penyelenggara Perjalanan Umrah yang Tidak Melaksanakan Tanggungjawabnya*. *Proceeding IAIN Batusangkar*, 1(1), 622-627.
- Yuliza, R., & Hermansyah, A. (2021). *Tinjauan Viktimologis terhadap Kejahatan Penipuan Travel Jamaah Umrah (Suatu Penelitian di Wilayah Hukum Pengadilan Negeri Banda Aceh)*. *Jurnal Ilmiah Mahasiswa Bidang Hukum Pidana*, 5(3), 472-480.