

Juridical Study of The Multi-Interpretation Clause of Tourism Agreements in The Digital Era

Ni Nyoman Putri Purnama Santhi¹, Johannes Ibrahim Kosasih²

¹University of Bali Internasional and putripurnama27@unbi.ac.id

²University of Warmadewa and johannesibrahim26@gmail.com

ABSTRACT

Tourism business contracts in the digital era often trigger disputes. This is because the parties involved in the business contract are subject to different legal systems. Apart from that, contracts signed by the parties still contain clauses that contain multiple interpretations. Contracts that should become law for the parties actually become a source of dispute. This research aims to conduct a juridical study of multi-interpretation clauses in tourism agreements in the digital era. This research uses a normative method by examining statutory regulations, books, journals, and articles relating to tourism business contracts and multi-interpretation clauses. The research results show that the existence of multiple interpretation clauses in tourism business contracts can trigger disputes that hinder the development of the tourism industry. Therefore, efforts are needed to draft clear and firm clauses and pay attention to legal harmonization so that tourism business contracts can provide legal certainty and protect the parties involved.

Keywords: *Multi Interpretation Clause, Business Contract, Tourism, Digital Era, Juridical Study.*

1. INTRODUCTION

In the development of the current digital era, information and communication technology has had an impact on business actors, one of which is in the tourism sector.[1] Digitalization has changed the way businesses operate, from marketing to managing daily operations. Online platforms such as websites, social media, and mobile applications have become the main tools in promoting tourist destinations, booking travel services, and interacting with customers. With easy and quick access to information, travelers can easily compare prices, read reviews, and make travel decisions based on data available in real-time. On the other hand, business people are trying to improve their business by collaborating with other parties to improve their business [2].

Tourism business contracts are cooperation agreements between domestic and foreign business actors in utilizing tourism business opportunities. In Bali, for example, it is undeniable that business players often enter into tourism business contracts with local communities to optimize existing tourism potential. This cooperation covers various aspects, such as tourism infrastructure development, management of tourist destinations, and provision of quality tourism services. In this context, the tourism business contract serves as a legal basis that regulates the rights and obligations of each party, as well as ensuring legal certainty in the tourism business.

Implementation of the cooperation [3]. However, it is important to ensure that the contract is drafted clearly and unequivocally to avoid potential disputes that could harm both parties. The involvement of local communities in these contracts is also expected to have a positive impact on the local economy and the preservation of local culture.

However, the implementation of tourism business contracts between business actors between countries does not always run smoothly. Business actors from various countries with different legal systems create their own complexities in the preparation and implementation of contracts. Therefore, tourism business contracts in the digital era are often the trigger for disputes.

Tourism business contracts can be found in various clauses that are multi-interpretive, which means that the provisions in the contract can be understood differently by each party. These multi-interpretive clauses have the potential to cause differences in understanding between the parties involved, so that the contract, which should function as a law for the parties, becomes a source of dispute. Vagueness and uncertainty in the interpretation of contract clauses can result in prolonged conflict and harm all parties involved.

From an international civil law perspective, disputes arising from cross-border tourism business contracts are more complex. This is due to differences in contract law principles, applicable jurisdictions, and dispute resolution procedures across countries. Each country has a unique legal system, with rules and principles that may differ from one another such as the principle of *Good Faith* in contract law in Continental European countries may be interpreted differently compared to a similar principle in *Common Law* applied in *Anglo-Saxon countries* [4]. Parties to a contract are often subject to the jurisdiction or the law of the land.

Different legal systems according to the country of origin or location where the contract is made. This leads to difficulties in determining the *Applicable Law* and the competent dispute resolution forum (*Forum Selection*). When a dispute arises, determining the applicable law is often a key issue, as each party may prefer to have the dispute resolved under the laws of their own country which they consider more favorable.

Tourism business contracts in the digital era with the use of sophisticated information and communication technologies allow transactions to be carried out quickly and efficiently, but also add new dimensions to potential disputes [5]. For example, the use of digital signatures and e-contracts poses new challenges in terms of validity, authentication and document integrity. Multi-interpretation clauses in these electronic contracts can add complexity to the interpretation and enforcement of these contracts. Based on the introduction above, it is interesting to be researched with the title "**Juridical Study of the Multi Interpretation Clauses of Tourism Agreements in the Digital Era**".

2. METHODS

The type of research used is normative juridical. Normative juridical research is a type of research conducted to analyze and understand legal regulations and applicable norms. This approach focuses on analyzing legal sources, such as laws, regulations, court decisions, and other legal documents [6]. This research aims to understand, interpret, and apply the applicable legal regulations in a particular context. Normative juridical research involves collecting data from relevant legal sources, both primary and secondary. Primary sources are directly applicable legal regulations, such as laws and government regulations. Meanwhile, secondary sources are papers, articles, books, and other studies that interpret and analyze legal regulations [7].

3. RESULTS AND DISCUSSION

3.1 Clauses in Tourism Business Contracts May Qualify as Multinterpretation

A contract can be understood as an agreement made between the parties involved because each party has an interest in making the contract. The provisions of Article 1313 of the Civil Code (KUH-Perdata) state that an agreement is an act by which one or more people bind themselves to one or more other people [8]. A contract or agreement is an agreement that contains a legally binding element between the parties involved.

Through the agreement, each party has a commitment to fulfill certain obligations and has the right to demand the implementation of agreed rights. A contract can be interpreted as an

engagement in which the parties bind themselves to each other to fulfill certain obligations and obtain agreed rights. This is in line with the provisions of Article 1233 of the Civil Code (KUHPdata) which explains that the obligation is born from an agreement or law. An obligation born from an agreement occurs when the parties voluntarily make an agreement that regulates their rights and obligations. Meanwhile, an obligation born from law arises due to certain legal provisions that regulate the relationship between the parties without any prior agreement. An engagement has a binding nature and provides legal certainty for the parties to carry out their rights and obligations. Contracts as a form of engagement play an important role in ensuring the achievement of legal objectives and justice for all parties involved [9].

The requirements for the validity of a business contract are still guided by the provisions of Article 1320 of the Civil Code (KUHPdata). This article sets out four main requirements that must be met for a contract to be considered valid and legally binding. First, there must be an agreement between the parties making the agreement. This agreement must be based on free will and without coercion, fraud, or mistake. Second, the parties making the agreement must be legally capable, which means they have the ability to perform legal actions, are not under guardianship, and have reached the age of majority. Third, there must be a certain thing as the object of the agreement. This object must be clear and determinable, and not contrary to law, decency, and public order. Fourth, there must be a lawful cause for the agreement.

This cause is the purpose or reason that drives the parties to make the agreement, and must be in accordance with applicable legal provisions. If these four conditions are met, then the business contract is considered valid and legally binding on the parties, and can be used as a basis for enforcing the agreed rights and obligations [10].

Referring to the requirement of lawful cause in business agreements, it is important to ensure that every business contract, including in the tourism sector, must contain clauses that do not conflict with applicable laws. Such clauses must be drafted clearly and unequivocally to avoid the potential for different interpretations by the parties involved. Multi-interpretation clauses are one of the conditions prohibited in the making of business contracts, because they can contain elements of deception that have the potential to harm one of the parties. A multi-interpretation clause is a clause that can be interpreted in various ways and does not provide legal certainty regarding the rights and obligations of the parties. This ambiguity opens up space for manipulative interpretation, where one party may try to take advantage of the ambiguity for personal gain. In the context of treaty law, the existence of multi-interpretation clauses is contrary to the principles of fairness and good faith that should underlie every business contract. Such clauses not only undermine trust between the parties, but can also give rise to disputes that require legal intervention for resolution [11].

The qualification of a multi-interpretation clause in a business contract refers to a condition where the terms of the contract can be interpreted in different ways by the parties involved. These multi-interpretation clauses are usually characterized by the use of vague, ambiguous, or overly general language thus leaving room for different interpretations. The existence of such a clause in a contract can lead to legal uncertainty, as parties may have different understandings of the rights and obligations listed. This can result in disputes that require resolution through legal channels. In the context of agreement law, multi-interpretation clauses contradict the principles of clarity and legal certainty that should underlie every contract. Therefore, it is imperative for parties to business contracts to avoid the use of multi-interpretation clauses by ensuring that every provision in the contract is written in clear, specific language, and leaves no room for multiple interpretations.

In tourism business contracts, where the parties are often from different legal jurisdictions, the presence of multi-interpretation clauses can create additional complications. Differences in the interpretation of laws in different countries can exacerbate ambiguities and prolong the dispute resolution process. Therefore, it is important to draft contracts with straightforward and specific language, covering all aspects relevant to the business cooperation. In addition, the parties should ensure that the clauses in the contract have been vetted by competent legal counsel to ensure compliance with applicable laws and reduce the risk of multiple interpretations. The lawful cause

requirement in business contracts emphasizes the importance of the legality and morality of the objective to be achieved through the agreement. This purpose must be legitimate, not contrary to the law, and not violate the norms of decency and public order. In the case of tourism business contracts, for example, halal objectives could be the development of tourist destinations, improvement of services to tourists, or cooperation for the preservation of local culture. All these objectives must be clearly spelled out in the contract, without any element of deception or hidden intentions that could harm one of the parties.

Making business contracts in the tourism sector should use phrases, words, or sentences that have clear meanings and can be understood by both parties. Clarity of language in the contract is very important to ensure that all parties have the same understanding of the agreed rights and obligations. Vagueness or ambiguity in contract language can lead to different interpretations, which in turn can trigger disputes. In the tourism sector, where cooperation often involves various elements such as infrastructure development, provision of tourist services, and management of tourist destinations, the use of clear language is crucial. When drafting a tourism business contract, each clause should be written in straightforward and specific language. For example, provisions regarding the term of the contract, details of each party's obligations, and dispute resolution mechanisms should be explained in detail and leave no room for different interpretations.

In addition, it is important to ensure that technical terms used in the contract are also understood by all parties. If necessary, definitions of such terms should be included in a special section of the contract to avoid misunderstandings. In international business contracts in tourism, where the parties may come from different legal jurisdictions and have different cultural backgrounds, the use of clear and unambiguous language becomes even more important. An accurate translation of the contract into a language understood by all parties can also help prevent misunderstandings. In addition, parties should consider including provisions on the applicable law and jurisdiction to be used in the event of a dispute, to provide legal certainty and facilitate dispute resolution. The use of phrases, words, or sentences that are clear and can be understood by both parties in making tourism business contracts is a form of correlation of the principle of *Pacta Sunt Servanda*. The principle can be interpreted to mean that agreements made legally apply as laws to those who make them, hence the importance of complying with and implementing every provision that has been agreed upon in the contract. In relation to ensuring that this principle can be carried out properly, each element in the contract must be structured in such a way that there is no room for double or multiple interpretations. Clarity of language in the contract supports the principle of *Pacta Sunt Servanda* by ensuring that all parties have the same understanding of the contents of the agreement and their respective obligations. Phrases such as "in accordance with the applicable provisions" and "with due regard to the applicable laws and regulations" are also often used to emphasize that each party must comply with the relevant laws, so that there is no violation of the applicable legal provisions. This confirms that the contract is not only morally binding but also legally so that it is in line with the principle of *Pacta Sunt Servanda* [12].

3.2 Dispute Resolution on Tourism Business Contracts Containing Multi-interpretation Clauses Caused by Different Legal Systems

Dispute resolution in tourism business contracts is an important aspect that must be carefully considered by the parties involved in the contract. In the context of tourism, where cooperation often involves business actors from different countries with different legal systems, the possibility of disputes is higher. Therefore, tourism business contracts should contain clear provisions regarding dispute resolution mechanisms to ensure that any disputes that arise can be resolved effectively and efficiently. One of the methods a dispute resolution often used in international business contracts, including tourism, is arbitration [13]. Arbitration offers various advantages, such as a faster process than courts, confidentiality, and a final and binding decision. Parties can agree on the particular arbitration institution that will handle their dispute, as well as establish the law to be applied in the arbitration process. By including an arbitration clause in the

contract, the parties demonstrate a commitment to resolve disputes out of court and avoid lengthy and costly litigation [14].

In addition to arbitration, mediation is also a dispute resolution method that can be considered. Mediation involves a neutral third party to help the parties reach a mutually beneficial agreement. The process is more collaborative and allows the parties to maintain their good relationship, which is very important in the tourism business. A mediation clause in the contract may set out the mediation procedure and the institution or mediator to be chosen to handle the dispute. However, in some cases, dispute resolution through the courts is unavoidable. Therefore, the tourism business contract should include provisions regarding the jurisdiction of the court to be used if the dispute has to be resolved through litigation. This jurisdictional stipulation is important to avoid confusion and ensure that the parties know which court has the authority to resolve their dispute. In addition, the choice of applicable law should also be included in the contract to ensure that disputes will be resolved in accordance with the law agreed by the parties [15].

The importance of including dispute resolution provisions in tourism business contracts is not only to provide legal certainty but also to reduce the risks and costs associated with the dispute process. With a clear and agreed dispute resolution mechanism in place, parties can focus more on developing their business without having to worry about potential unforeseen disputes. In addition, this provision also reflects the professionalism and good faith of the parties in carrying out their cooperation. Overall, dispute resolution in tourism business contracts should be designed with the interests and rights of the parties in mind, and ensure that any disputes can be resolved in a fair and efficient manner. Through appropriate dispute resolution mechanisms, the parties can maintain harmonious and sustainable business relationships, and support the development of the tourism industry as a whole.

Dispute resolution by mediation or arbitration remains guided by the choice of legal system used by the parties to the contract. In international civil law, one of the recognized principles is the principle of *Lex Loci Contractus* or the Law of the Place where the Contract is Made. This principle determines that the applicable law to regulate and resolve contract disputes is the law of the place where the contract is made or signed. The *Lex Loci Contractus* principle becomes very relevant in tourism business contracts, especially when it involves parties from various countries with different legal systems. This principle provides guidance to the parties to determine which law will govern their contract and provide legal certainty in dispute resolution. For example, if the contract is made and signed in Bali, then Indonesian law can be chosen as the governing law of the contract. In the context of dispute resolution through mediation or arbitration, the choice of law based on the principle of *Lex Loci Contractus* ensures that the process of dispute resolution will be conducted in a timely manner.

Dispute resolution follows the rules and principles of law applicable in the place where the contract is made. This is important to provide certainty and consistency in the enforcement of the parties' rights and obligations. For example, in mediation, the mediator will direct the proceedings based on the chosen law, and in arbitration, the arbitrator will decide the dispute based on the law set out in the contract. When including a mediation or arbitration clause in the contract, the parties should explicitly state the applicable law. Phrases such as "Dispute resolution through mediation/arbitration shall be conducted under the applicable law of the place where this contract is made" can be used to clarify the choice of law. The parties acknowledge and agree that the law of the place where the contract is made will be the basis for the resolution of their dispute [16].

It is important to understand that the selection of a legal system through the *Lex Loci Contractus* Principle must be done in good faith and without any intention to avoid certain stricter legal provisions in other jurisdictions. This means that the parties must choose the law that is truly relevant and has a strong connection to their contract. Dispute resolution by mediation or arbitration guided by the *Lex Loci Contractus* Principle provides a clear and structured framework for the parties. This not only helps avoid confusion and conflicts of legal interpretation but also provides a solid foundation for fair and efficient dispute resolution. Thus, tourism business contracts can be

implemented more smoothly, and potential disputes can be minimized through pre-agreed settlement mechanisms [17].

CONCLUSION

Drafting tourism business contracts that avoid multi-interpretive clauses and use clear language is key to reducing potential disputes. Contracts must fulfill the legal requirements stipulated in Article 1320 of the Civil Code and reflect the principle of Pacta Sunt Servanda. Clarity in each clause and the use of straightforward language ensure that all parties understand and agree to their respective rights and obligations, thus providing legal certainty and minimizing the risk of disputes. The Lex Loci Contractus principle is also important in determining the applicable law, especially in international business contracts. Through clear and legal contracts, as well as the enforcement of the Pacta Sunt Servanda principle, the parties can maintain harmonious business relationships and support the development of the tourism industry effectively.

Dispute resolution in tourism business contracts, especially those containing multi-interpretive clauses and involving different legal systems, requires special attention. It is important for such contracts to include clear provisions on dispute resolution mechanisms, such as arbitration and mediation, which can provide a faster, confidential and binding process than litigation. The principle of Lex Loci Contractus, which refers to the law under which the contract is made, is particularly relevant to provide legal certainty and consistency in the enforcement of the parties' rights and obligations. By choosing the right and relevant law, and drafting contracts in good faith, parties can avoid confusion and potential conflicts, ensure fair and efficient dispute resolution, and support the harmonious and sustainable development of the tourism industry.

REFERENCES

- [1] I. Isdarmanto, "Strategi Branding Pengembangan Industri Pariwisata 4.0 Melalui Kompetitif Multimedia di Era Digital," *J. Tour. Creat.*, vol. 4, no. 1, 2020, doi: 10.19184/jtc.v4i1.14383.
- [2] D. T. Anggarini, "Upaya Pemulihan Industri Pariwisata Dalam Situasi Pandemi Covid -19," *Pariwisata*, vol. 8, no. 1, pp. 22–31, 2021.
- [3] D. Tangian, *Tourism Business Law*. Manado: Politeknik Manado, 2021.
- [4] R. M. Dyastuti, "Akibat Hukum Penerapan Prinsip Good Faith Pada Kontrak Investasi Internasional Di Indonesia," *Bacarita Law J.*, vol. 3, no. 2, pp. 125–139, 2023, doi: 10.30598/bacarita.v3i2.8962.
- [5] Alifah Rahma Yunita et al., "Hukum Perdata Nasional Di Era Digital: Tantangan Dan Peluang Dalam Data Pribadi," in *Proceeding of Conference on Law and Social Studies*, 2024.
- [6] J. Sriwidodo and Kristiawanto, *Memahami Hukum Perikatan*. Yogyakarta: Kepel Press, 2021.
- [7] A. Hidayat, "Critical Review Buku 'Penelitian Hukum' Peter Mahmud Marzuki Penelitian Hukum Ad Quemtentang Norma," *J. Ilm. Huk.*, vol. 7, no. 2, pp. 117–125, 2021, doi: 10.33319/yume.v7i2.109.
- [8] K. Paendong and H. Taunaumang, "Kajian Yuridis Wanprestasi Dalam Perikatan Dan Perjanjian Ditinjau Dari Hukum Perdata," *Yuridis*, pp. 1–7, 2019.
- [9] T. H. Lubis, "Hukum perjanjian di Indonesia," *Sos. dan Ekon.*, vol. 2, no. 3, pp. 177–190, 2022.
- [10] A. M. Umami and A. A. Dudy, "Realiasi Hukum Perjanjian Dalam Dinamika Hukum Di Indonesia," *Parhesia*, vol. 1, no. 2, pp. 136–141, 2023, doi: 10.29303/parhesia.v1i2.3649.
- [11] Hariyanto, "Risk-Based Business License and Problems Arising After the Job Creation Act," *J. IUS Kaji. Huk. dan Keadilan*, vol. 10, no. 2, pp. 354–366, 2022, doi: 10.29303/ius.v10i2.1082.
- [12] A. R. Ditiagonzaga, H. Haryanto, and P. Y. Angwarmasse, "Pengaruh Asas Pacta Sunt Servanda Dalam Kontrak Karya Terhadap Divestasi Saham PT. Freeport Indonesia," *Krisna Law*, vol. 1, no. 3, pp. 65–76, 2019.
- [13] J. T. N. N. A. Astiti, "Penyelesaian Sengketa Bisnis Melalui Lembaga Arbitrase," *J. Huk.*, vol. 6, no. 2, pp. 76–83, 2021, doi: 10.23971/jaq.v6i2.3461.
- [14] F. A. Fadillah and S. A. Putri, "Alternatif Penyelesaian Sengketa Dan Arbitrase (Literature Review Etika)," *J. Ilmu Manaj. Terap.*, vol. 2, no. 6, pp. 744–756, 2021, doi: 10.31933/jimt.v2i6.486.
- [15] A. Nurafifah and D. S. H. Marpaung, "Mediasi Sebagai Alternatif Penyelesaian Sengketa," *J. Akta Yudisia*, vol. 9, no. 5, pp. 2303–2317, 2022, doi: 10.35334/ay.v2i2.1547.
- [16] R. S. Dimlana, L. Y. Irsan, M. F. Darmawan, M. N. R. Sukmana, and M. M. Wijaya, "Implikasi Perjanjian Perdagangan Bebas Terhadap Prinsip-Prinsip Hukum Perdata Internasional: Analisis Mendalam Tentang Pada Pemberlakuan Penyelesaian Sengketa Internasional," *Jaksa J. Kaji. Ilmu Huk. dan Polit.*, vol. 2, no. 2, pp. 138–152, 2024.
- [17] A. Aminah, "Pilihan Hukum dalam Kontrak Perdata Internasional," *Diponegoro Priv. Law Rev.*, vol. 4, no. 2, 2019.