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LEGAL PROTECTION OF EMPLOYMENT CONTRACT AGREEMENTS BETWEEN CLUB AND FOOTBALL PLAYERS IN CASES OF BREACH OF WAGE PAYMENT

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ABSTRACT

Football is one of the most popular sports worldwide and has developed into a professional industry involving contractual relationships between football clubs and players. In Indonesia, professional football players enter into employment agreements with clubs, which establish the rights and obligations of both parties, including the obligation to pay wages in accordance with the agreed terms. However, delays and failures in wage payments remain significant issues in Indonesian professional football, potentially placing players in a vulnerable contractual and economic position. This study aims to examine the legal protection afforded to football players in employment agreements when clubs breach their contractual obligations, particularly concerning delayed or unpaid wages. This research employs a normative legal research method using statutory and conceptual approaches. The study examines the legal framework governing employment relationships, particularly the relevant provisions of Indonesian labour legislation, alongside the contractual obligations arising from agreements between clubs and players. The findings are expected to demonstrate that football players are entitled to legal protection as workers, including the right to receive wages in accordance with applicable laws and their employment agreements. Clubs that fail to fulfil their wage payment obligations may be subject to legal consequences under employment law and the principles of contractual liability. Accordingly, effective legal protection requires the consistent enforcement of labour regulations and contractual remedies to ensure legal certainty, fairness, and the fulfilment of football players' economic rights.

Keywords : Soccer; Salary; PSSI

1. Introduction

Football is one of the most popular sports in the world, including Indonesia. Football is played by 11 players by kicking the ball, running, dribbling, and putting it into the opponent's goal while defending their own goal. Football is a sport that contains elements of fun, where players have many techniques and styles in kicking the ball towards the opponent's goal. In this sport, players are expected to have a strong physique so that they can make agile movements and accept challenges when there is a change in the situation when playing on the field. Agility is the main physical element that a football athlete must have because the better a football player can play, the greater the salary they will get.

In Indonesia, football began to develop in 1914. This development supported the

formation of the All Indonesia Football Association (PSSI) on April 29, 1930 in Yogyakarta.[1] PSSI becomes the power holder in managing Indonesian football so that the industrialization of football runs well. Although currently, the achievements of the Indonesian football team have decreased due to several factors due to the management of the organization that is less synergistic. However, in this case it can be supported by one of them with the mechanism of a football club like a company, namely by making long-term player contracts with salaries without arrears which can then be the initial step for Indonesian football to be more professional.[2]

Football is a sport that involves a working relationship between the club and its players. Football has developed into an industry that aims to obtain funds or income. A football club can pay football players through the income earned. In this case, the football club has entered into a working relationship with the football player, namely the existence of a work agreement that has been agreed upon between the two parties. An agreement is an event where a person or has bound himself to another person. Meanwhile, according to Article 1 paragraph (14) of Law Number 13 of 2003 concerning employment, a work agreement is an agreement between workers/laborers and employers or employers that contains the terms of work, rights, and obligations of the parties. These rights and obligations will give rise to responsibilities for both parties. Football players have a working relationship based on a work agreement based on an agreement between the two parties. However, it is not uncommon for the work agreement to give rise to problems such as acts of default by the club to the football player so that these rights and obligations are not fulfilled and do not comply with the work agreement that has been agreed upon, especially regarding salary payments.

Not a few football players get cases where salaries are paid late or even not paid, both for local players and foreign players. As in the case of late salaries made by the Persikab Bandung football club in League 2 in 2022. The basic reason is the lack of legal protection for football players and the understanding of football players regarding their rights, and there are still many football players who feel confused about what to do when

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1 R N Bayu Aji, "Nasionalisme Dalam Sepak Bola Indonesia Tahun 1950-1965," *Lembaran Sejarah,* 10, no. 2 (2013): 137.

2 A M R Alhabsi, "Perlindungan Hukum Terhadap Pemain Sepak Bola Atas Keterlambatan Gaji Yang Dilakukan Oleh Klub Sepak Bola Persikab Bandung Pada Liga 2 Tahun 2022," *Das Sollen: Jurnal Kajian Kontemporer Hukum …*, no. 3 (2023): 1–17, https://doi.org/10.11111/dassollen.xxxxxxx.

a dispute occurs. In fact, it is known that providing wages/salaries is the club's obligation to be paid to football players after the football players have carried out their obligations.[3]

Receiving wages is the right of football players as workers at football clubs that must be fulfilled by the club after the football players carry out their obligations, namely performing achievements by playing football for the club. The provision of wages must be based on the contents of the work agreement that has been agreed upon between the player and the football club. However, in fact, not all football players receive wages after fulfilling their responsibilities. In this case, there are several dispute resolution efforts that can be taken by the parties as stated in Article 88 of Law No. 3 of 2005 concerning the National Sports System, which states that the resolution of sports disputes can be carried out through deliberation, arbitration or court. [4]

2. Methods

This study employs a normative legal research method, which focuses on examining legal norms, principles, and regulations governing the legal relationship between professional football players and football clubs in Indonesia. The research aims to analyze the legal protection afforded to professional football players, particularly concerning the fulfillment of their contractual rights and the club's obligations to pay salaries in accordance with the agreed employment contract.

This research applies three approaches: the statutory approach, the conceptual approach, and the case approach. The statutory approach is used to examine relevant Indonesian laws and regulations, particularly Law Number 13 of 2003 concerning Manpower, as amended, Law Number 3 of 2005 concerning the National Sports System, and other relevant regulations governing professional sports and employment relationships. The conceptual approach is applied to obligations, default (*wanprestasi*), legal protection, and dispute resolution. Meanwhile, the case approach is used to examine the issue of delayed salary payments involving Persikab Bandung in the 2022 League 2 competition as an illustration of the legal problems faced by professional football players

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[3] mildan Abdalloh, "Bukan Karena Liga 2 Dihentikan, Persikab Juga Sering Telat Bayar Gaji Pemain," Ayobandung.com, 2023, https://www.ayobandung.com/olahraga/797801991/bukan-karena-liga-2-dihentikan-persikab-juga-sering-telat-bayar-gaji-pemain.

[4] Nandhika Fajar Prasetya and Elan Jaelani, "Perlindungan Hukum Pembayaran Tunggakkan Gaji Atlet Sepak Bola Profesional Di Indonesia," *Jurnal Hukum Dan Dinamika Masyarakat* 21, no. 2 (2023): 2023, http://jurnal.untagsmg.ac.id/indeks.php/hdmhttp://dx.doi.org/10.56444/hdm.v21i1.

in Indonesia.

The legal materials used in this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include relevant legislation and other legally binding regulations. Secondary legal materials comprise legal books, scholarly journals, research articles, and academic publications discussing employment law, sports law, contractual obligations, and the protection of professional football players. Tertiary legal materials, including legal dictionaries and relevant legal encyclopedias, are used to support the interpretation of legal terminology and concepts.

The legal materials are collected through library research and document analysis. The collected materials are the analyzed qualitatively using a descriptive analytical method. This analysis involves identifying relevant legal provisions, interpreting their application to the legal relationship between football players and clubs, and examining the legal consequences arising from the failure to fulfill contractual obligations, particularly salary payments. The findings are presented systematically to formulate legal arguments and conclusions regarding the adequacy of legal protection and the available mechanisms for resolving salary related disputes involving professional football players in Indonesia.

3. Result and Discussion

3.1 Validation of Contract

The definition of a contract agreement is stated in Article 1 number 14 of Law Number 13 of 2003 concerning Manpower which states that "A work agreement is an agreement between a worker/laborer and an entrepreneur or employer that contains the terms of work, rights, and obligations of the parties." From the definition of the agreement, it can be interpreted that if a contract agreement is made, it will give rise to the rights and obligations of the parties. The agreement creates a legal relationship that causes legal consequences such as the fulfillment of rights and obligations, demands, and fulfillment of achievements. The legal relationship itself has the meaning of a relationship that occurs between two or more parties, where one party fulfills the achievement then the other party is obliged to perform.[5] The intended achievements are divided into three, namely

[5] Muhammad Riandi, Nur Ridwan, and Yana Sukma Permana, "Wanprestasi Akibatnya Dalam Pelaksanaan Perjanjian" VI, no. 2 (2022): 441–51.

giving something (giving an object), doing something (doing an act), not doing something. The elements in Article 1313 of the Civil Code are among others :

a. Legal acts, if there is a legal act then there are legal consequences;
b. Parties (subjects);
c. Rights and obligations that are reciprocal from each party;
d. Object of the agreement, namely stated in Article 1332 to Article 1334 of the Civil Code

To carry out or make an agreement, it must fulfill the criteria for the validity of an agreement as stated in Article 1320 of the Civil Code, which states 4 conditions, including:

1. An agreement that contains an offer and acceptance, therefore involving the parties called the subjects of the agreement
2. Competence *(bekwaamheid)*, the criteria for competence are stated in articles 1329 to 1330, if it does not meet the criteria for competence then it is called incompetent *(onbekwaanheid)*
3. Certain matters relating to the object, namely, it must not conflict with what is in society and the law
4. Because it is prohibited[6]

The terms of agreement and competence are subjective terms because they relate to the subject or parties. While the terms of certain things and prohibited reasons are objective terms because they relate to objects or things.

The principles in a contract agreement are divided into several principles, two of which are the principle of consensualism and the principle of contracting. The principle of consensualism comes from the word consensus which means agreement. The agreement is in accordance with the will of the parties which is voluntary. The agreement is included in the subjective requirements which if not met are the agreement canceled in court. If the objective requirements are not met then it is legally void or never happened. The principle of freedom of contract is the freedom for football clubs to freely make agreements containing provisions or conditions stated in the agreement by mutual agreement and the contents do not conflict with the Law or law. If the agreement has been agreed upon

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[6] Peranan Perjanjian et al., "Peranan Perjanjian Kerja Dalam Mewujudkan Terlaksananya Hak Dan Kewajiban Para Pihak Dalam Hubungan Ketenagakerjaan," *Jurnal Ilmiah Hukum Dirgantara* 7, no. 2 (2014): 30–45, https://doi.org/10.35968/jh.v7i2.132.

between the parties concerned, then in accordance with Article 1338 of the Civil Code which states "All agreements made legally apply as laws for those who make them" or what is commonly called the principle of *Pacta Sunt Servanda*. Therefore, if one party violates the contents of the agreement either in whole or in part, it is considered a breach of contract.

Thus, the case of default by a football club to a football player is a problem that violates the principle of *Pacta Sunt Servanda* and the elements of the valid conditions of an employment contract, namely agreement. An employment contract agreement is made based on an agreement between the two parties, one of which is that the employer, namely the football club, provides wages to workers, namely football players, in carrying out their achievements. If the football club does not pay wages on time to the football player, where the wages are his right, then it can be interpreted as violating the principles and elements of the contract agreement that has been made.

3.2 Legal Protection of Employment Contract Agreements in the Event of Default by Football Clubs to Football Players

The work contract agreement that is usually made in terms of work often occurs a breach of promise or does not carry out what was agreed upon together. A breach of promise is referred to as a breach of contract in an agreement which means the non-fulfillment of the agreement or poor performance or can also be interpreted as not fulfilling the obligations agreed upon in the agreement. A breach of contract occurs for two reasons, namely Not because of an error, namely a forced situation (*force majeure*), and because of an error, namely carried out by a person who carries out the performance intentionally so that it causes a loss). A breach of contract that occurs due to forced circumstances such as a natural disaster so that the performance cannot be carried out. A breach of contract due to an error is divided into 4 categories, including the following :

1. Not achieving, meaning not carrying out the achievement or obligation at all
2. Being late, meaning passing the agreed deadline
3. Not fulfilling the achievement properly, meaning that the achievement is fulfilled but not in accordance with what is desired
4. Fulfilling the achievement not as it should be[7]

[7] Hukum Bisnis, Fakultas Hukum, and Universitas Udayana, "Wanprestasi Terhadap Pelaksanaan Kontrak

In the case discussed in this journal, namely default due to errors made by the person who carries out the performance, namely the recipient of the work who gets the right to receive wages that are often delayed at the time of payment. Regarding the matter of late wages, there are several regulations that regulate this, including :

1. The 1945 Constitution of the Republic of Indonesia

The right to wages arising from the employment contract agreement is regulated and protected in this Law, specifically in Article 27 paragraph (2) which states "every citizen has the right to work and a decent living for humanity." Article 28 D of this Basic Law stipulates that :

(1) Everyone has the right to recognition, guarantees, protection and certainty of fair law and equal treatment before the law;

(2) Everyone has the right to work and receive fair and appropriate compensation and treatment in employment relations;

(3) Law Number 13 of 2003 concerning Manpower.

Wages are the rights of workers to employers which can be further explained in Law Number 13 of 2003 concerning Manpower, specifically in Article 88 paragraph (1) which states "every worker/laborer has the right to receive income that meets a decent living for humanity." In this case, it is further strengthened by Article 1 number 3 which states "A worker/laborer is every person who works by receiving wages or other forms of compensation." Thus, wages are the rights of workers/laborers after doing their work. If there is a delay in payment of wages to workers/laborers, there will be consequences that have been regulated in the Manpower Law, Article 95 paragraph (2) which states "employers who, due to their intent or negligence, cause a delay in payment of wages, will be subject to a fine according to a certain percentage of the worker/laborer's wages."

2. Law Number 11 of 2022 concerning Sports

In this Law also regulates the wages of football players, namely professional athletes in carrying out their profession must first make a contract agreement with a football club. In the contract agreement must include that getting income is in accordance with Article 59 paragraph (3) which states that every professional athlete in carrying out their profession has rights, one of which is in Article 59 paragraph (3) letter d which shows that

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Kerja Oleh Klub Terhadap Pemain Sepak Bola," 2015, 1–13.

professional athletes have the right to receive decent income according to the standards determined by the professional sport. Professional athletes themselves have requirements contained in Article 59 paragraph (2) one of the requirements of which still takes provisions from the Employment Law. Professional football players in carrying out their profession must first make a contract agreement with a football club.[8]

3. Government Regulation Number 36 of 2021 concerning Wages is amended to Government Regulation Number 51 of 2023 concerning Wages

In this Government Regulation, there are rights and obligations of employers and employees that arise from the employment contract agreement. In this case, the football club is an entrepreneur or employer, namely it has obligations, one of which is stated in Article 55 paragraph (1) which states that entrepreneurs or employers are required to pay wages at the time agreed between the entrepreneur (football club) and workers/laborers (football players). If the football club is late or does not pay wages to football players in this provision, it is the same as regulated in Article 61 of Government Regulation Number 36 of 2021, which states that if those who violate the provisions in Article 55 paragraph (1) are subject to fines with various provisions calculated based on the time of delay in payment of wages.

3.3 Settlement of Default

The resolution of sports disputes is regulated in Article 88 of Law Number 3 of 2005 concerning the National Sports System which states :

(1) Settlement of sports disputes is attempted through deliberation and consensus carried out by the parent organization of the sports branch;

(2) In the event that deliberation and consensus as referred to in paragraph (1) are not achieved, dispute resolution can be pursued through arbitration or alternative dispute resolution in accordance with statutory regulations;

(3) If dispute resolution as referred to in paragraph (2) is not achieved, dispute resolution can be carried out through a court that is in accordance with its jurisdiction.[9]

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[8] I KETUT SATRIA WIRADHARMA SUMERTAJAYA, Kadek Ary Purnama Dewi, and Ni Putu Ari Setyaningsih, "Penyelesaian Sengketa Upah Pemain Sepakbola Profesional Pasca Berlakunya Undang-Undang Nomor 11 Tahun 2022 Tentang Keolahragaan," *Jurnal Yustitia* 17, no. 2 (2023): 76–86, https://doi.org/10.62279/yustitia.v17i2.1128.

[9] putri Kurniawati, "Regulasi Badan Penyelesaian Sengketa Nasional NDRCI," *Universitas Nusantara PGRI Kediri* 01 (2017): 1–7.

Apart from through deliberation and consensus, disputes between football players and clubs can be resolved through the National Dispute Resolution Chamber (NDRC), which in accordance with Article 1 paragraph (7) of the regulations of the NDRC national dispute resolution body states that this arbitration body is a national arbitration body in the field of football in Indonesia which has the authority to resolve disputes in accordance with applicable regulations.[10]

Article 4 paragraph (3) states that if PSSI has not carried out its obligations in certain areas regulated by FIFA, the FIFA Statutes and regulations apply by analogy. The NDRC can also consider all agreements, legislation, especially those related to labor laws applicable in the Republic of Indonesia.

In Chapter III Article 14 it is stated that the parties involved or who can resolve disputes in this NDRC arbitration include players, football clubs, and football schools. In resolving the dispute, the parties are guaranteed that all their rights are fulfilled, which is regulated in Article 15 that the basic procedural rights of the parties must be guaranteed, especially the right to be heard and the right to equal treatment at every stage of the case examination. The types of disputes that can be resolved by the NDRC arbitration body include:

a. Disputes arising under the Contract between a Player and a Football Club or Football School; or
b. Disputes between Clubs or Football Clubs; or
c. Disputes between Football Clubs and Football Schools.

The resolution of this problem through mediation is stated in Article 7 of Supreme Court Regulation Number 1 of 2016 which states that the obligation to conduct mediation to resolve the problem in good faith. The problem resolution scheme through non-litigation, namely peaceful efforts such as arbitration, mediation, and conciliation is an effective way to resolve a case including the problem we are discussing now because the parties can reach the best solution for both parties.

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[10] Marina Kurniawati, Herni Widanarti, Aminah, *Tinjauan Yuridis Status Keperdataan Pelaku Transeksual (Studi Kasus Penetapan Pengadilan Negeri Kabupaten Semarang Nomor 518/Pdt.P/2013/PN.Ung)*, Diponegoro Law Journal, Vol.6 No. 2 Tahun 2017. file:///Users/tommyarieanto/Downloads/17431-35554-1-PB.pdf

4. Conclusion

From the description above, it can be concluded that the problems that occur between players and football clubs can be resolved through mediation or conciliation, where both of these things are part of good faith to reach a mutual agreement, but if it is felt that mediation and conciliation have been carried out but there is no mutual agreement, then the next legal step can be taken, namely Arbitration. Where the official arbitration body NDRC can be a forum to resolve all problems related to football.

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