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LEX SPORTIVA IN INDONESIAN SPORTS LAW: AUTONOMY, INDEPENDENCE, AND HARMONIZATION WITH NATIONAL LAWS

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ABSTRACT

The principle of lex sportiva as the main principle in sports law has not yet been regulated in Law No. 11 of 2022 on Sports. The lack of regulation of the lex sportiva principle results in the suboptimal application of the lex sportiva principle in Indonesian sports law. This research aims to analyze the position of the lex sportiva principle in Indonesian sports law and its relevance to the national legal system. This research is a normative legal study that emphasizes a legislative and conceptual approach. The results of this study indicate that sports law, as a new field in legal science, is based on the principle of lex sportiva, which is related to independence, autonomy, and harmonization with the national legal system. The recommendations offered in this study include the need for a revision of Law No. 11 of 2022 on Sports Law by emphasizing the position of the lex sportiva principle in Indonesian sports law, as well as the need for an understanding of the lex sportiva principle in the organization of sports, including making the lex sportiva principle a part of legal considerations for judges in the Supreme Court and the Constitutional Court when adjudicating disputes related to sports aspects.
Keywords*: Sports Law; Lex Sportiva; National Legal System.*

1. Introduction

The development of legal studies in society is actually influenced by the development of social realities that are increasingly massive.[1] In the era of the industrial revolution 4.0 and the era of *society* 5.0, societal developments are becoming increasingly complex and global in nature so that this aspect must get regulation through legal instruments.[2] The importance of regulation from a legal aspect is actually to ensure that the development of social reality becomes more organized and can guarantee the rights and obligations of society. One aspect of the development of social reality that is growing increasingly massive and requires regulation by law is the field of sports.

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[1] Masithoh, M. Q. D., Hakim, H. A., Praja, C. B. E., & Iswanto, B. T. (2023). AI in Law: How Artificial Intelligence Is Transforming the Legal Profession in Indonesia. *Justitia Journal of Law*, *7*(2), 137-152. https://doi.org/10.30651/justitia.v7i2.17832

[2] Prasetio, D. E. (2024). Legal Politics of Omnibus Law Related to Cybercrime in Indonesia in the Perspective of Progressive Law. *Indonesian Journal of Law Studies*, *3*(1), 2741.

Sports in the 21st century in particular have experienced massive development considering that sports are not only games and physical activities aimed at realizing the physical fitness of each individual.[3] The existence of the industrial revolution 4.0 and the era of *society* 5.0 has made sports develop and have relevance to various fields, especially related to the industrialization of sports.[4] The industrialization of sports actually emphasizes that sports must be interpreted broadly, not only games *in* the field of play (*in the* field) but also including other aspects that take place outside the field of play (*out of the* field).[5] This is what makes the law must be present as a means to regulate the various aspects that develop in the realm of sports.

The development of sports and the need for regulation by law is in line with the mandate of Article 1 number 2 of Law No. 11 of 2022 concerning Sports (hereinafter referred to as the Sports Law) which emphasizes that one of the important aspects related to sports is the regulatory aspect.[6] This regulatory aspect is clearly closely related to the science of law because one of the functions of law as stated by Satjipto Rahardjo is to accommodate, facilitate, and protect the rights of the community over the development of certain areas of law so that justice can be achieved as desired by the parties.[7] This emphasizes the importance of legal studies regarding the legal aspects that regulate and discuss the field of sports.

Sports law is important as part of the study of legal science apart from being a mandate from the Sports Law as well as an effort to accommodate various developments in the field of sports that require legal arrangements.[8] One important aspect in the study of sports law is the understanding and study of the main principles in sports law, namely the

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[3] Margaritis, K. (2019). *Law, Ethics, and Integrity in the Sports Industry*. IGI Global.

[4] Saputra, I., & Tohari, M. (2023). Legal Protection of the Welfare of Sports Athletes in the Perspective of Law Number 3 of 2005. *Journal Research of Social Science, Economics, and Management*, *2*(11), 26982706. https://doi.org/10.59141/jrssem.v2i11.474

[5] Gu, Y. (2023). Exploration of the Development Path of Leisure Sports Industry under the Background of National Fitness. *Journal of Innovation and Development*, *5*(3), 112115. https://doi.org/10.54097/irjto0aw

[6] Romadhon, I. H., & Suhartono, S. (2023). The Urgency of Applying Lex Sportiva If There is a Criminal Element in the Case of Football Score Setting. *Bureaucracy Journal: Indonesia Journal of Law and Social-Political Governance*, *3*(1), 859870. https://doi.org/10.53363/bureau.v3i1.220

[7] Rahardjo, S. (2012). *The Science of Law* (7th ed.). Citra Aditya Bakti

[8] Zulhidayat, M. (2022). Dysfunction of the Role of the Anti-Mafia Bola Task Force in Combating Match Fixing in Indonesian Football. *Scientific Journal of the Legal World*, *6*(2), 93. https://doi.org/10.35973/jidh.v6i2.3240

principle of *lex sportiva*.[9] *Lex sportiva* is a *lex specialis* or special legal principle that develops in the field of sports law which simply means that in the field of sports, special laws that develop in the field of sports law apply as well as various efforts to resolve disputes are also based on provisions in the field of sports law and cannot be interfered with or intervened by other laws, such as state law.[10] The importance of *lex sportiva* in sports law emphasizes that the study and learning of sports law must fundamentally understand and study the principle of *lex sportiva*. This makes the principle of *lex sportiva* as the heart of sports law (*lex sportiva is the heart of sports law*).[11]

Lex sportiva as an important aspect of sports law in practice still raises legal problems related to the regulation and application of the *lex sportiva* principle in sports law in Indonesia. This can be seen in the Sports Law which has not included or provided a general and basic formulation of the *lex sportiva* principle. The Sports Law through Article 102 paragraph (1) only provides a narrow and implicit understanding of the *lex sportiva* principle, namely only in the aspect of independence of sports dispute resolution where sports disputes are subject to and regulated in regulations made by the parent organization of each sport.[12] This view clearly narrows the meaning and essence of the *lex sportiva* principle which is not only related to the independence of sports dispute resolution, but also related to the autonomy of a parent sports organization or sports federation to regulate various aspects in the field of sports and also includes harmonization efforts as an important element in the *lex sportiva* principle*.* Harmonization related to the *lex sportiva* principle is in principle to ensure that the field of sports law can synergize with arrangements in national law which in practice there is often an intersection between sports law and national law of a country, especially in this context is positive law in Indonesia.[13]

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[9] Ogechukwu Miriam Akinsulore, A. O. A. (2022). Lex Sportiva, FIFAs Exclusive Arbitration Clause and the Nigerian Constitution: Where Does the Supremacy Lie? *GNLU Journal of Law, Development and Politics*, *12*(1), 5882.

[10] Silalahi, R. S. (2020). Corruption in Match-Fixing Within Sports: the Need To Regulate Future Legislation (a Comparative Study and Lesson From the Australian System of Law). *Indonesia Law Review*, *10*(1). https://doi.org/10.15742/ilrev.v10n1.546

[11] Panagiotopoulos, D. P. (2023). Implementation of Lex Specialis in Sports Jurisdiction. *Kutafin Law Review*, *10*(2), 239255. https://doi.org/10.17803/2713-0533.2023.2.24.239-255

[12] Christiana Sri Murni, Fradhana Putra Disantara, D. E. P. (2023). Political Law in Settling Sports Disputes in Indonesia. *Kanun: Journal of Legal Science*, *25*(2), 320.

[13] Di Marco, A. (2022). Human rights in the Olympic Movement: The application of international and European standards to the lex sportiva. *Netherlands Quarterly of Human Rights*, *40*(3), 251.

From the description above, the legal problem in this study is the existence of legal vagueness in the regulation of the *lex sportiva* principle in sports law in Indonesia which only narrowly regulates the independence of sports dispute resolution. In fact, it is more appropriate that the principle of *lex sportiva* in sports law is related to three important aspects, namely autonomy, independence, and harmonization. The urgency of this research is to provide an expansion or extension of the principle of *lex sportiva* as a basic principle in sports law which in principle should be formulated in the Sports Law. This research has two main objectives, namely: (i) to analyze the position of Indonesian sports law in the study of legal science and (ii) to reformulate the regulation of the *lex sportiva* principle in the Sports Law and its relevance to Indonesian national law.

Research and discussion related to the *lex sportiva* principle have actually been carried out by several researchers before, such as research by Murni, et al. (2023) which focuses on the *lex sportiva* principle and sports dispute resolution. The novelty of Murni's research is that there is disharmony in the implementation of the *lex sportiva* principle, especially when the Sports Law mandates that sports dispute resolution be regulated by the parent organization of the sports branch, while on the other hand there is a Constitutional Court Decision that still has not firmly formulated the limits of the authority to resolve sports disputes associated with the existence of KOI and KONI institutions.[14] Further research was conducted by Azhari et al. (2024) which discussed the consideration of the NDRC as a sports dispute resolution institution in Indonesia.[15] The novelty of the research by Azhari et al. (2024) is that the existence of the NDRC is actually based on the principle of *lex sportiva* so that its decisions are binding as court decisions. Other research was conducted by Mahardika and Daud (2024) who analyzed the *lex sportiva* principle and the refusal of the Israeli national team to compete in Indonesia.[16] The novelty of Mahardika and Daud's (2024) research is that it is necessary to adjust various laws and regulations to the principle of *lex sportiva* so that the uproar over the refusal of the Israeli national team to compete in Indonesia no longer occurs.

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[14] Christiana Sri Murni, Fradhana Putra Disantara, D. E. P. (2023). Political Law in Settling Sports Disputes in Indonesia. *Kanun: Journal of Legal Science*, *25*(2), 320.

[15] Azhari, A., Marjon, D., & Manas, Y. A. (2024). Legal Considerations of the National Dispute Resolution Chamber (NDRC) Arbitration in Deciding Sports Disputes in the Field of Football (Case Study Number 042 / NDRC / VI / 2020). *Unes Law Review*, *6*(4), 1248412499.

[16] Daud, A. G. M. A. (2024). Elimination of Indonesia as U-20 World Cup Host in the Perspective of State Law and Lex Sportiva. *Legacy: Journal of Law and Legislation*, *4*(1), 1-23.

From the three previous studies above, it can be concluded that this research is original because the *lex sportiva* principle in terms of autonomy, independence, and harmonization has never been discussed by the three previous researchers.

2. Methods

This research which discusses the essence of the *lex sportiva* principle in Indonesian sports law which includes aspects of autonomy, independence and harmonization is normative legal research. Normative legal research or commonly also known as *doctrinal research of law* is legal research based on authoritative legal products in the form of legislation and court decisions that have permanent legal force which are then analyzed based on principles, theories, concepts, and doctrines that develop in legal science.[17] Primary legal materials in this research include: The 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), Law No. 11 of 2022 on Sports (Sports Law), and Government Regulation No. 46 of 2024 on the Implementation of Sports (Government Regulation on the Implementation of Sports). Secondary legal materials include: journal articles, books, and research results that discuss sports law and the principle of *lex sportiva*. Non-legal materials are books and journal articles that discuss sports and sportsmanship. Analysis of legal materials is done prescriptively, namely by focusing on solving a legal problem or legal issue contained in the formulation of the problem.[18] The approach used is the concept and legislation approach.

3. Result and Discussion

Sports law or in international English terms is better known as *sports law* is basically a field of legal studies that can be said to be relatively new in legal science.[19] This is because initially the sports aspect basically has no relevance to the law because sports are more related to physical games that are carried out with the aim of gaining fitness and fostering

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[17] Marzuki, P. M. (2024). *Legal Research*. Prenada Media Group.

[18] Hari Sutra Disemadi. (2022). The Lens of Legal Research: A Descriptive Essay on Legal Research Methodology. *Journal of Judicial Review*, *24*(2), 289-304. https://jurnal.unigal.ac.id/

[19] Panagiotopoulos, D. P. (2017). *Sports Law: Lex Sportiva and Lex Olympica Theory and Praxis*. CreateSpace Independent Publishing Platform.

happiness and solidarity (Healey, 2005).[20] Sport as a physical activity is what initially has no relevance to the law because in this context only the *rules of the game* apply.[21]

Comprehensive developments related to sports actually require an assessment in the legal aspect, especially when this sport is officially competed in international forums and involves various parties. This can be seen from the practice of organizing the Olympics which requires special arrangements and involves various countries.[22] This special arrangement in organizing the Olympics then requires the existence of special laws in the sports aspect so that the *lex sportiva* principle and various other related principles are developed. In the field of organizing the Olympics, for example, the principle of *lex sportiva* specifically in the Olympic field has developed under the name *lex olympica (Panagiotopoulos*, 2020).[23] In principle, *lex olympica* is the same as *lex sportiva*, except that it is specific to the organization of the Olympics.

The development of the *lex sportiva* principle is also increasingly massive when each sport runs its own competition and is also international. Football, for example, with the holding of the FIFA *World Cup* which requires special arrangements as regulated by FIFA as the parent organization of football at the world level.[24] In addition, in the aspect of sports, the rules of the game have also developed which aim to regulate how a sports match is run.[25] The rules of the game that are specifically carried out to regulate how a sports match is carried out are then commonly known as *lex ludica[26]. Lex ludica* and *lex olympica* or various other terms are actually part of the principle of *lex sportiva* as stated by Dimitrios

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[20] Healey, D. (2005). *Sports and the Law*. University of New South Wales Press Ltd.

[21] Martín-García, M. del M., Ruiz-Real, J. L., Gázquez-Abad, J. C., & Uribe-Toril, J. (2022). Golf and Health, More than 18 HolesA Bibliometric Analysis. *Healthcare (Switzerland)*, *10*(7), 13. https://doi.org/10.3390/healthcare10071322

[22] Mann, R. H., Clift, B. C., Boykoff, J., & Bekker, S. (2020). Athletes as community; Athletes in community: Covid-19, sporting mega-events and athlete health protection. *British Journal of Sports Medicine*, *54*(18), 10711072. https://doi.org/10.1136/bjsports-2020-102433

[23] Panagiotopoulos, D. P. (2023). Implementation of Lex Specialis in Sports Jurisdiction. *Kutafin Law Review*, *10*(2), 239255. https://doi.org/10.17803/2713-0533.2023.2.24.239-255

[24] Hayajneh, A. Z. (2021). Sports Law And Sport Integrity In Qatar: Analyzing The Law For Regulating Sports Clubs And Other Legal Instruments In A Critical Context. *Global Journal of Politics and Law Research*, *9*(8), 119.

[25] Firmansyah, M. E., & Michael, T. (2023). Legal Status of PSSI Statute in Indonesian Legislation. *Innovative: Journal Of Social Science Research*, *3*(5), 17311742. https://doi.org/10.31004/innovative.v3i5.4780

[26] Irianto, B. S. (2020). Juridical Review of Criminal Offenses by Football Players in the Pssi Regional Competition Reviewed from Kuhp. *Justiciabelen Journal*, *2*(2), 1. https://doi.org/10.30587/justiciabelen.v2i2.1631

P. Panagiotopoulos who emphasized that the principle of *lex sportiva* actually has a broader meaning and includes *lex ludica*.[27]

Dimitrios P. Panagiotopoulos is actually one of the experts who introduced conceptions and ideas related to *lex sportiva* as a basic and fundamental principle in *sports law*. Dimitrios P. Panagiotopoulos believes that *lex sportiva* is not only related to the independence of sports dispute resolution independently, but also includes the affirmation of regulatory autonomy both by the federation or parent sports organization as well as those related to the rules of the game in sports.[28] Dimitrios P. Panagiotopoulos also emphasized that in addition to the importance of understanding the principle of *lex sportiva*, sports law is also related to the realm that is the main focus of sports law studies which include *law and* sports or law and sports where this realm is dominant as the realm of legal science and sports law or known as *sporting* law which is a special law that applies in the field of sports.[29] Referring to Dimitrios P. Panagiotopoulos' idea above, it can be seen that the principle of *lex sportiva* is generally only related to *sporting* law or the specificity of laws that apply in the field of sports.

In connection with the view of Dimitrios P. Panagiotopoulos above, which relates the relevance between the principles of *lex sportiva* and *sporting law* alone, it is actually not appropriate in the midst of the development of sports aspects that are increasingly widespread and comprehensive.[30] This is then the background that the law relating to sports is not appropriately called Sports Law because this only narrowly defines the specific legal aspects that apply in the field of sports. The correct translation in Indonesian related to *sports law* is Sports Law in addition to its broader meaning also because sports law actually facilitates aspects of *law and sports* or law and sports and also *sporting* law which is a special law that applies in the field of sports at once. In this context, the principle

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[27] Foster, K. (2012). Lex Sportiva and Lex Ludica: the Court of Arbitration for Sports Jurisprudence. In *Lex Sportiva: What is Sports Law?* (pp. 123148). ASSER Press.

[28] Panagiotopoulos, D. P. (2019). Sports Law Categories Fields Of Research And Implementation Of Sports Law. *Kuta n University Law Review*, *6*(2), 415418.

[29] Konstantinidis, K., & Panagiotopoulos, D. (2020). The Judgment of Sport Jurisdiction Bodies on Doping Cases. *Kutafin University Law Review*, *7*(1), 96107. https://doi.org/10.17803/2313-5395.2020.1.13.096-107

[30] Sulubara, S. M., Efendi, A., Abidin, Z., & Budiman. (2023). The Rule of Law for E-Sport Athletes Regarding Employment Contracts. *Execution*, *1*(3), 142150.

of *lex sportiva* applies in *sporting law* to emphasize independence and autonomy while in the context of *law and sports*, the principle of *lex sportiva* serves as harmonization.[31]

The principle of *lex sportiva* in the realm of *sporting law* is actually related to the laws that develop in the federation or parent sports organization as well as the laws of the game in each sport. The law of the game is a more appropriate term than the rules of the game because in sports games, not only are they subject to the agreed and written rules of the game but they are also subject to ethical values and *sportsmanship* in sports such as the values of *fair play*, *sportsmanship*, *equality, humanity*, and so on.[32] This confirms that the principle of *lex sportiva* in the realm of *sporting law* includes the laws that develop in the federation or parent sports organization as well as the laws of the game in each sport. In the aspect of *sporting law*, the *lex sportiva* principle also serves to ensure the existence of an independent dispute resolution institution in the field of sports.[33] This is as stated by Ken Foster that one of the important aspects of the *lex sportiva* principle is the *existence of the Court of Arbitration for Sport* (CAS) as a special dispute resolution institution in the field of sports.[34]

The principle of *lex sportiva* in its development also has relevance to the realm of *law and sports* or law and sports. This aspect is, in short, an aspect of general law whose object is sports.[35] This is like a sports agreement between athletes and clubs that refers to the principles of agreement law in general, sports licensing that refers to the field of administrative law and based on applicable licensing regulations, as well as various other aspects.[36] In this context, the *lex sportiva* principle has a function as a means of harmonization because in the aspect of *law and sports* there is the potential for overlap

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[31] Lindholm, J. (2019). *The Court of Arbitration for Sport and Its Jurisprudence: An Empirical Inquiry into Lex Sportiva*. ASSER Press.

[32] Sroka, R. (2022). Financial Fair Play and the Court of Arbitration for Sport. *Journal of Global Sport Management*, *1*(1), 120. https://doi.org/10.1080/24704067.2022.2032258

[33] Star, S., & Kelly, S. (2021). A level playing field in anti-doping disputes? The need to scrutinize procedural fairness at first instance hearings. *International Sports Law Journal*, *21*(12), 94117. https://doi.org/10.1007/s40318-020-00176-6

[34] Foster, K. (2012). Lex Sportiva and Lex Ludica: the Court of Arbitration for Sports Jurisprudence. In *Lex Sportiva: What is Sports Law?* (pp. 123148). ASSER Press.

[35] Feda, R., Budiono, I., Dwitya, Z., Herdiansyah, R., Wisuda, S., Suardi, Muhajir, Dahlan, M., & Ningtias, D. (2023). Government Authority Transfer of Legal Entity of Indonesian Football Association Indonesian Football Welfare. *Journal of Democratic Ethics*, *8*(4), 405418. https://doi.org/10.26618/jed.v

[36] Pandjaitan, H. I. (2013). *State Sovereignty Versus FIFA Sovereignty*. Gramedia Pustaka Utama.

between special laws in the field of sports and laws that apply in a country.[37] In the Indonesian context, for example, the Kanjuruhan Tragedy is the realm of *law and sports* because the legal problem is the disharmony between the regulations of the sports federation (in this case the FIFA *Stadium Safety and Security Regulations,* especially *in the Stadium Emergency Plans*) and the regulations in the Police regarding the security of sports supporters.[38] In addition, the principle of *lex sportiva* in the aspect of *law and sports* also discusses how far the state can intervene in sports federations. In this regard, Hinca IP Pandjaitan emphasized that the state can intervene in sports federations in the sense of intervening or assisting the implementation of the performance of sports federations such as assisting the construction of sports facilities, assisting sports funding, ensuring and guaranteeing protection and social security for athletes, and various other policies.[39] However, state intervention in sports federations is prohibited in aspects of interference such as the election of the chairman and vice chairman of the federation and other aspects related to the internal affairs of the sports federation or parent sports organization.[40]

The *lex sportiva* principle as stated above, actually has three main substances, namely: autonomy, independence, and harmonization. Autonomy and independence actually place the *lex sportiva* principle in the realm of *sporting* law where special laws apply in the field of sports both from the aspect of the *law of* the game (*law of the games*) including the *law of the* federation or the law of the parent sports organization. Harmonization, which is an important aspect of the *lex sportiva* principle, is actually in the realm of *law and sports*, which aims to find common ground between special laws in the field of sports and other laws, especially in the Indonesian context, which is national law or positive law.

From the description above, *sports law* is an interesting field to be one of the fields of study in law. This also confirms that the right term as a translation of *sports law* is Sports

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[37] Janika, Y. Z., & Mashudi, M. (2020). Employment Agreement Between Professional Football Athletes and Football Clubs. *Pro Hukum Journal: Journal of Research in Law at Gresik University*, *8*(2), 262-275. https://doi.org/10.55129/jph.v8i2.955

[38] Arinto Nugroho, et. al. (2023). Dispute Resolution between Players and Clubs after the Enactment of Law Number 11 Year 2022 Concerning Sports. *The 7th International Conference on Social Sciences Organized by Faculty of Social Science and Law Manado State University*, *50*, 3235.

[39] Pierre, P. A. J., Tangkere, I. A., & Sinaga, T. B. (2023). Violation of FIFA Stadium Safety and Security Regulations in the Kanjuruhan Tragedy. *Lex Administratum*, *13*(1), 112.

[40] Amin, R., Haryani Putri, A., & Hadrian, E. (2024). Indonesia National Police efforts in handling football supporter riots; a study of events at Kanjuruhan Stadium, Malang Regency, Indonesia. *Cogent Social Sciences*, *10*(1), 114. https://doi.org/10.1080/23311886.2024.2301837

Law which in the term Sports Law there are aspects of *law and sports* or law and sports and also *sporting law* which is a special law that applies in the field of sports at once. In relation to the position of *sports law* in legal science, as emphasized by Matthew J. Mitten, et al. that sports law is a broad field that covers the realm of private and public law simultaneously.[41]

Problems related to the formulation of the *lex sportiva* principle in Indonesian sports law as stipulated in the Sports Law are the absence of the *lex sportiva* principle in the Sports Law. The non-regulation of the *lex sportiva* principle in the Sports Law actually implies that all aspects related to the *lex sportiva* principle cannot be applied optimally in sports law in Indonesia. As explained in the previous discussion, the *lex sportiva* principle includes three important aspects, namely: autonomy, independence, and harmonization. When referring to Article 102 paragraph (1) of the Sports Law, in fact, only the independence aspect is regulated, which is related to the independence of dispute resolution in the field of sports which is regulated and resolved by the mechanism regulated by the parent organization of sports or sports federations.[42] This makes the aspects of autonomy and harmonization which are part of the *lex sportiva* principle have not been accommodated in the Sports Law.

The Sports Law which only emphasizes the independence aspect of *lex sportiva* makes the *Sports* Law only partially recognized and accommodated. One of the impacts of this is that there are still many problems related to aspects of autonomy and harmonization which are part of the *lex sportiva* principle that has not been optimally implemented in Indonesian sports law.[43] In its development, the Sports Law also mandates the establishment of implementing regulations in the form of PP No. 46 of 2024 concerning the Implementation of Sports (PP on the Implementation of Sports). As the executor of the Sports Law, the PP on the Implementation of Sports only technically regulates further provisions in the Sports Law, such as the regulation of sports master plans both at the national and regional levels and the division of authority between the center and the regions related to the implementation of sports. The principle of *lex sportiva* is still not

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[41] Matthew J. Mitten, Timothy Davis, Barbara O. (2020). *Sports Law: Governance and Regulation*. Wolters Kluwer.

[42] Saputra, M. F., & Nurhayati, Y. (2020). Dualism of Arbitration Institutions in the Settlement of Sports Disputes in Indonesia. *Journal of Indonesian Law Enforcement*, *1*(1), 120. https://doi.org/10.51749/jphi.v1i1.1

[43] Bützler, B. P. (2023). The Dual Function of Constitutional Rights in Lex Sportiva. In *Sport, Law and Philosophy: The Jurisprudence of Sport* (pp. 91112). Routledge.

optimally accommodated and has not even been formulated optimally, especially in relation to sports law in Indonesia as stipulated in the Sports Law and PP on the Implementation of Sports.

The unregulated principle of *lex sportiva* in sports law in Indonesia can actually have several legal consequences, such as the non-optimality of the autonomy of the parent organization of sports or sports federations in regulating certain aspects in the field of sports, which in this case can have the potential for regulatory intervention by state law. Regulatory intervention in this context means that there is the potential for state law rules to collide or intersect with the laws that apply in each sport or those made by sports federations.[44]. Another legal consequence is the difficulty of legal harmonization between the laws that apply in each sport or those made by sports federations and Indonesian national law. The comprehensiveness of arrangements in Indonesian national law often regulates several aspects that are actually the realm of laws that apply in each sport or those made by sports federations, causing legal disharmony, resulting in legal conflicts in practice.[45] The Kanjuruhan tragedy is one example of this disharmony and had an impact on casualties and then became one of the world's attention after the Kanjuruhan tragedy.[46] The unregulated *lex sportiva* principle in sports law in Indonesia actually requires legal reformulation efforts related to the *lex sportiva* principle in sports law in Indonesia by regulating the *lex sportiva* principle in the Sports Law. Arrangements related to the principle of *lex sportiva* in the Sports Law can be done with two options, namely: the first option, the regulation of the *lex sportiva* principle is expressly regulated by affirming the existence of the *lex sportiva* principle which includes harmonization, independence, and autonomy. This first option is actually the ideal formulation related to the regulation of the *lex sportiva* principle in the Sports Law so that it is necessary to revise the Sports Law. The second option is that the *lex sportiva* principle does not need to be explained in the Sports Law but its existence is recognized and optimally implemented. In this second option, the *lex sportiva* principle in the Sports Law does not need to be amended to the Sports Law but

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[44] Riyanto, S. (2024). Transformation of Lex Sportiva into the Legal System of Indonesian Sports. *2nd International Conference on Law, Economy, Social and Sharia*, *2*, 475496.

[45] Riyanto, S. (2022). Political Development of Indonesian Sports Law Study of Lex Sportiva Harmonization in the National Legal System. *Proceeding International Conference on Law, Economy, Social and Sharia*, *1*(1), 78101.

[46] Riyanto, S. (2019). Lex Sportiva Doctrine Versus National Sports Law: Analysis of the Clash of Positivism with Utilitarianism in the Development of the National Sports Law System to Support National Sovereignty. *Veritas*, *5*(1), 41.

requires the role of the court to emphasize the existence of the *lex sportiva* principle in the Sports Law. This second option is a realistic choice but requires an important role of the courts both within the scope of the Supreme Court and the Constitutional Court if there are certain cases related to sports law to always refer to the *lex sportiva* principle. The important role of the court with regard to the existence of the *lex sportiva* principle in the Sports Law is in line with Oliver Wendell Holmes' view that the court through its decision can confirm a legal principle that is relevant to certain cases.

4. Conclusion

The position of *sports law* in legal studies is actually in a broad realm, which includes the realm of private and public law simultaneously. Sports law substantively also includes aspects of *law and sports* or law and sports which is an aspect of law whose object is sports and *sporting law* which is a field where special sports law applies which includes laws made by the parent organization of sports or sports federation law with the law of the game (*laws of the games*) regulated by each sport. The principle of *lex sportiva* in sports law also has an important position because this principle covers three aspects at once, namely: autonomy, independence and harmonization. Autonomy and independence actually place the *lex sportiva* principle in the realm of *sporting* law where the enactment of special laws in the field of sports both from the aspect of the *law of* the game (*law of the games*) including also the *law of the* federation or the law that applies in the parent sports organization. Harmonization, which is an important aspect of the *lex sportiva* principle, is actually in the realm of *law and sports*, which aims to find common ground between special laws in the field of sports and other laws, especially in the Indonesian context, which is national law or positive law.

Reformulation of the *lex sportiva* principle arrangement in the Sports Law can actually be done by revising the Sports Law by affirming the position of the *lex sportiva* principle which is substantially related to aspects of harmonization, autonomy, and independence. Another legal effort is to confirm the existence of the *lex sportiva* principle through court decisions, so that the *lex sportiva* principle even though it is not listed in the Sports Law is still recognized for its existence in Indonesian sports law. The recommendation offered in this research is that all parties who run aspects of sports need to understand the principle of *lex sportiva* so that this can minimize disharmony between

national law and applicable law in the field of sports. A comprehensive study is also needed so that the field of *sports law* studies can develop both in Indonesia and in the world.

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