



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

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### ABSTRACT

Football is one of the most popular sports in the world. With its rapid development, a national football organization called PSSI or the All Indonesia Football Association was formed. There are quite a few problems faced by Indonesian football players related to work contract issues, one of which is the problem of late payment of football players' wages by football clubs. Football athletes themselves are still referred to as workers or laborers and are subject to the Manpower Law so that the problems faced by athletes must be based on the Manpower Law. The purpose of this study is to determine the form of legal protection for football players when problems arise between football players and clubs related to wages that are not paid on time.

**Keywords:** Soccer, Salary, PSSI

### INTRODUCTION

Soccer is one of the most popular sports around the world including Indonesia. Football is played by 11 players by kicking the ball, running, dribbling, and put into the opponent's goal by defending their own goal. Soccer is a sport that contains an element 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 in order to make agile movements and accept challenges when there are changes in the situation when playing on the field. Agility is the main physical element that a soccer athlete must have because the more soccer players can play well, the bigger the salary they will get.

In Indonesia, soccer began to develop in 1914. This development supported the formation of the Indonesian Football Association (PSSI) on April 29, 1930 in Yogyakarta.<sup>1</sup> PSSI is the holder of power in managing Indonesian football so that the industrialization of football runs well. Although at this time, the achievements of the Indonesian football team have decreased due to several factors due to the management of an organization that lacks synergy. However, in this case, one of them can be supported by the mechanism of the football club like a company, namely by making long-term player contracts with salaries without arrears which can then become a rare beginning for Indonesian football

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<sup>1</sup> R N Bayu Aji, "Nationalism in Indonesian Football 1950-1965," *Historical Gazette*, 10, no. 2 (2013): 137.

to be more professional.<sup>2</sup>

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 soccer club can pay soccer players through the revenue earned. In this case, the soccer club has entered into a working relationship with the soccer player, namely the existence of a work agreement that has been agreed 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 manpower, a work agreement is an agreement between workers / laborers and employers or employers that contains working conditions, rights and obligations of the parties. These rights and obligations will give rise to responsibilities for both parties. Soccer players have a working relationship based on a work agreement based on the agreement of both parties. But it is not uncommon for the employment agreement to arise problems such as acts of default committed by the club to soccer players so that these rights and obligations are not fulfilled and are not in accordance with the agreed work agreement, especially regarding salary payments.

Not a few soccer players get cases that salaries are paid late or not even paid for both local players and foreign players. As in the case of salary delays made by the Persib Bandung soccer club in League 2 in 2022. The basic reason is due to the lack of legal protection for soccer players and soccer players' understanding of their rights, and there are still many soccer players who feel confused about what to do when a dispute occurs. Even though it can be seen that providing wages / salaries is the club's obligation to be paid to the soccer player after the soccer player has carried out his obligations.<sup>3</sup>

Receiving wages is the right of soccer players as workers at the soccer club which must be fulfilled by the club after the soccer player carries out his obligations, namely performing achievements by playing soccer for the club. The provision of wages must be based on the contents of the employment agreement that has been agreed between the player and the soccer club. But in fact, not all soccer players get paid after fulfilling their responsibilities. In this case, there are several dispute resolution efforts that can be taken by the parties as mentioned in Article 88 of Law No. 3 of 2005 concerning the National Sports System, which states that sports dispute resolution can be carried out through deliberation, arbitration or court.<sup>4</sup>

## **DISCUSSION**

### **Contract agreement**

The definition of a contract agreement is contained in Article 1 number 14 of Law Number 13 of 2003 Concerning Manpower which states that "A work agreement is an

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<sup>2</sup> A M R Alhabsi, "Legal Protection of Football Players for Salary Delays Made by the Persib Bandung Football Club in League 2 in 2022," *Das Sollen: Journal of Contemporary Legal Studies ...*, no. 3 (2023): 1-17, <https://doi.org/10.11111/dassollen.xxxxxxx>.

<sup>3</sup> mildan Abdalloh, "Not Because League 2 Was Stopped, Persibab Also Often Late Paying Player Salaries," *Ayobandung.com*, 2023, <https://www.ayobandung.com/olahraga/797801991/bukan-karena-liga-2-dihentikan-persikab-juga-sering-telat-bayar-gaji-pemain>

<sup>4</sup> Nandhika Fajar Prasetya and Elan Jaelani, "Legal Protection of Salary Arrears for Professional Football Athletes in Indonesia," *Journal of Law and Community Dynamics* 21, no. 2 (2023): 2023, <http://jurnal.untagsmg.ac.id/index.php/hdmhttp://dx.doi.org/10.56444/hdm.v21i1>.

agreement between workers/laborers and employers or employers that contains working conditions, rights, and obligations of the parties." From the definition of the agreement, it can be interpreted that when making a contract agreement, 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 means a relationship that occurs between two or more parties, where one party fulfills the achievement then the other party is obliged to perform.<sup>5</sup> The achievement in question is divided into three, namely giving something (giving objects), doing something (doing actions), not doing something. The elements in Article 1313 of the Civil Code are, among others:

- a. Legal actions, if there are legal actions then there are legal consequences
- b. Parties (subjects)
- c. Rights and obligations that are reciprocal from each party
- d. The object of the agreement is stated in Article 1332 through Article 1334 of the Civil Code.

The conditions of agreement and capability are subjective conditions because they relate to the subject or the parties. Meanwhile, the requirements of certain things and prohibited causes are objective requirements because they relate to objects or objects.

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

- a. The agreement in which contains an offer and acceptance, therefore involves the parties called the subject of the agreement.
- b. Capability (*bekwaamheid*), the criteria for capability are contained in articles 1329 to 1330, if it does not meet the criteria for capability, it is called incapacity (*onbekwaamheid*).
- c. Certain things are related to the object, which must not contradict what is in society and the law.
- d. Forbidden cause<sup>6</sup>

The conditions of agreement and capability are subjective conditions because they relate to the subject or the parties. Meanwhile, the requirements of certain things and prohibited causes are objective requirements because they relate to objects or objects.

The principles in contractual agreements are divided into several principles, two of which are the principles of consensualism and the principle of contract. 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 conditions which, if not fulfilled, the agreement is canceled in court. If the objective conditions are not met, it is legally void or never happened. The principle of freedom of contract is freedom for between free soccer clubs in making agreements that contain the provisions and conditions included in the agreement by mutual agreement and the

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<sup>5</sup> Muhammad Riandi, Nur Ridwan, and Yana Sukma Permana, "Defaults Resulting in the Performance of an Agreement" VI, no. 2 (2022): 441-51.

<sup>6</sup> "The Role of Employment Agreements in Realizing the Implementation of the Rights and Obligations of Parties in Employment Relations," *Scientific Journal of Aerospace Law* 7, no. 2 (2014): 30-45, <https://doi.org/10.35968/jh.v7i2.132>.

contents do not conflict with the law or the law. If the agreement has been agreed between the parties concerned, it is in accordance with Article 1338 of the Civil Code which reads "All agreements made legally shall apply as a law to those who make them" or what is commonly known as the principle of *Pacta Sunt Servanda*.<sup>7</sup> Therefore, if one of the parties violates the contents of the agreement either in whole or in part, it is considered a default.

Thus, cases of default by soccer clubs to soccer players are problems that violate the principle of *pacta sunt servanda* as well as elements of the legal requirements of an employment contract agreement, namely agreement. The employment contract agreement is made based on the agreement of both parties, one of which is that the employer, namely the soccer club, provides wages to workers, namely soccer players, in carrying out their performance. If the soccer club does not pay wages on time to the soccer player where the wages are his right, it can be interpreted as violating the principles and elements in the contract agreement that has been made.

### **Legal Protection of Labor Contract Agreements in the Event of Default by Football Clubs to Football Players**

Work contract agreements that are usually made in terms of work often break promises or do not carry out what was agreed upon. Breach of promise is referred to as default in an agreement, which means non-fulfillment of the agreement or poor performance or can also be interpreted as not fulfilling the obligations agreed upon in the agreement. Default occurs due to two things, namely not due to fault, namely forced circumstances (*force majeure*), and due to fault, namely carried out by the person who carries out the performance intentionally so as to cause harm). Defaults that occur due to forced circumstances such as natural disasters so that they cannot carry out their achievements. Default due to fault is divided into 4 categories including the following:

1. Non-performance, i.e. not performing the performance or obligation at all.
2. Late i.e. past the agreed time limit
3. Poor fulfillment of performance, meaning that the performance is fulfilled but not as desired.
4. Fulfillment of performance is not as it should be<sup>8</sup>

In the case discussed in this journal, namely default due to errors committed by the person who performs the performance, namely the work recipient who gets the right to receive wages that often get delayed at the time of payment.<sup>9</sup> Regarding the matter of late wages, there are several arrangements that regulate this, including:

1. Constitution of the Republic of Indonesia Year 1945

The right to wages arising from labor contract agreements that are regulated and protected in this Law is precisely in Article 27 paragraph (2) which reads "every citizen has the right to work and a livelihood worthy of humanity." Article 28 D of this Constitution stipulates that:

- (1.1) Everyone has the right to recognition, guarantees, protection, and certainty of

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<sup>7</sup>Riandi, Ridwan, and Permana, "Defaults Resulting in the Performance of an Agreement."

<sup>8</sup> Business Law, Faculty of Law, and Udayana University, "Default on the Implementation of Employment Contracts by Clubs Against Football Players," 2015, 1-13.

<sup>9</sup> Luisa Srihandayani, "Juridical and Practical Perspectives on the Differentiation of Default and Unlawful Acts," *Kawruh Abiyasa Journal* 1, no. 2 (2022): 166–81, <https://doi.org/10.59301/jka.v1i2.22>

a fair law and equal treatment before the law.

(1.2) Everyone has the right to work and to be rewarded and treated fairly and appropriately in labor relations.

2. Law Number 13 Year 2003 on Manpower

Wages are the right of the recipient of work against the employer which can be explained again in Law Number 13 of 2003 concerning Manpower precisely in article 88 paragraph (1) which reads "every worker / laborer has the right to obtain an income that meets a decent living for humanity." In this case, it is further strengthened by the existence of article 1 number 3 which reads "Workers / laborers are every person who works by receiving wages or compensation in other forms." Thus, wages are the right of workers/laborers after performing their work. If there is a delay in the payment of wages to workers/laborers, there will be consequences that have been regulated in the Manpower Law Article 95 paragraph (2) which reads "employers who due to their intentions or negligence result in late payment of wages, are subject to a fine in accordance with a certain percentage of the wages of workers/laborers."

3. Law No. 11 of 2022 on Sport

In this Law also regulates the wages of soccer players, namely professional sportsmen in carrying out their profession must first make a contract agreement with the soccer club. In the contract agreement it must include that getting income is in accordance with Article 59 paragraph (3) which states that every professional sportsman in carrying out his profession has rights, one of which is contained in Article 59 paragraph (3) letter d which shows that professional sportsmen are entitled to a decent income according to the standards determined by professional sports. Professional sportsmen themselves have requirements contained in article 59 paragraph (2), one of which still takes provisions from the labor law. Professional soccer players in carrying out their profession must first make a contract agreement with the soccer club.<sup>10</sup>

4. 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 the employer and work recipient arising from the employment contract agreement. In this case the soccer club is an employer or employer, which has obligations, one of which is stated in Article 55 paragraph (1) which states that the employer or employer is obliged to pay wages at the time agreed between the employer (soccer club) and the worker / laborer (soccer player). If the soccer club is late or does not pay wages to soccer players in this provision, the same is 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.

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<sup>10</sup> I KETUT SATRIA WIRADHARMA SUMERTAJAYA, Kadek Ary Purnama Dewi, and Ni Putu Ari Setyaningsih, "Settlement of Professional Football Player Wage Disputes After the Enactment of Law Number 11 of 2022 concerning Sports," *Yustitia Journal* 17, no. 2 (2023): 76–86, <https://doi.org/10.62279/yustitia.v17i2.1128>.

## **Default settlement**

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

- (1). The settlement of sports disputes is pursued through deliberation and consensus carried out by the parent sports organization.
- (2). In the event that deliberation and consensus as referred to in paragraph (1) cannot be reached, dispute resolution may be pursued through arbitration or alternative dispute resolution in accordance with laws and regulations.
- (3). If the dispute settlement as referred to in paragraph (2) is not reached, the dispute settlement may be carried out through the court in accordance with its jurisdiction.<sup>11</sup>

Apart from deliberation and consensus, disputes between soccer players and clubs can be resolved through the *National Dispute Resolution Chamber* (NDRC), which in accordance with Article 1 paragraph (7) of the NDRC national dispute resolution body regulation states that this arbitration body is a national arbitration body in the field of soccer sports in Indonesia which has the authority to resolve disputes in accordance with applicable regulations.<sup>12</sup>

Article 4 paragraph (3) states that if PSSI has not carried out its obligations in certain fields regulated by FIFA, FIFA Statutes and regulations apply by analogy. The NDRC can also consider all agreements, legislation, especially related to labor law that applies 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, soccer clubs, and soccer schools. In resolving the dispute, the parties are guaranteed that all their rights are fulfilled, which is stipulated in Article 15 that the fundamental 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 a Contract between a Player and a Football Club or Football School; or
- b. Disputes between fellow Football Clubs; or
- c. Dispute between Football Club and Football School."<sup>[7]</sup>

The resolution of this problem through mediation is stated in Article 7 of Supreme Court Regulation No. 1 of 2016 which states that the obligation to conduct mediation to resolve problems in good faith. Non-litigation problem solving schemes, namely peaceful efforts such as arbitration, mediation and conciliation are effective ways to resolve a case, including the problems we are discussing today because the parties can reach the best solution for both parties.

## **CONCLUSION**

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<sup>11</sup> Putri Kurniawati, "Regulation of the NDRCI National Dispute Resolution Body," *Universitas Nusantara PGRI Kediri* 01 (2017): 1-7.

<sup>12</sup> Marina Kurniawati, Herni Widanarti, Aminah, *Juridical Review of the Civil Status of Transsexual Offenders (Case Study of Semarang Regency District Court Determination Number 518/Pdt.P/2013/PN.Ung)*, Diponegoro Law Journal, Vol.6 No. 2 Year 2017.

From the description above, it can be concluded that problems that occur between players and football clubs can be resolved through mediation or conciliation, both of which 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 you can take the next legal step, namely Arbitration. Where the official arbitration body of the NDRC can be a forum for resolving all problems related to football.

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