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ANOMALY OF THE AUTHORITY OF THE DISTRICT COURT IN EXAMINING AND RESOLVING FOOTBALL SPORTS DISPUTES IN INDONESIA

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Abstract

Sports problems are currently very much in Indonesia, the dynamics of sports in Indonesia have indeed developed rapidly until now it has shifted to the direction of the industry involving various stakeholders. This development certainly has positive things, but on the one hand, it has problems that are also increasingly complex. In the latest case, Persipura Jaya filed a lawsuit with the Central Jakarta District Court to sue Barito Putera. Persib Bandung because Persib considers that there is match-fixing. If you look at the lawsuit, Persipura Jayapura asked the District Court to cancel the match between Persib Bandung and Barito Putera, this ini became very interesting because the sports team was taken to the District Court. This article will analyze the position and function of the District Court according to the *ius constitutum* and the extent of the authority of the District Court to examine and decide sports dispute cases in Indonesia. This article will use normative juridical research methods. The research results conclude that the position and function of the District Court are to examine, adjudicate and decide Criminal and Civil cases in the first instance. The District Court has no authority to resolve disputes in sports. This is because there is no rule on this. The suggestion in this sense is that Indonesia must have a judicial institution that specializes in handling sports cases, such as CAS in Switzerland, so there needs to be a revision of laws and regulations if Indonesia wants to create a special court regarding sports.

INTRODUCTION

Today's legal problems are very complex and intersect with various fields, including sports, law being a discipline that can enter into multiple dimensions. However, in the past Hans Kelsen in his theory explained that law should be pure and should not be influenced by other disciplines, but today in fact law has always had a close relationship with other disciplines.¹

The presence of law in the middle of the community is expected to be able to solve problems that arise in the middle of the community, related to the legal settlement process, of

¹Muhammad Zulhidayat, "Kewenangan Dan Peran Pemerintah Dalam Penyelenggaraan Kompetisi Sepak Bola Di Indonesia (the Authority and Role of Government in the Organizing of Football Competition in Indonesia)," *Jurnal Hukum Replik* 6, no. 2 (2018): 222.

course, it can be resolved by two events, namely litigation and non-litigation. Non-litigation is indeed more straightforward in solving problems compared to more complex litigation.²

One of the processes that can be taken in resolving a problem is to take the court route, the court is an institution authorized to resolve legal issues. The court is divided into several levels, both courts of level I, Appeals, and Cassation to the Supreme Court.³ The litigation process is a very favorite process. It is often used by various parties to resolve their cases. Judges are expected to be able to provide solutions in resolving the issue through a decision read by a panel of judges so that the parties assess that with the conclusion of the panel of judges, legal certainty will arise.⁴

District Courts should have authority attributable to positive law in Indonesia, but many people do not understand what the authority of district courts is. One example of a problem arises when the Persib team makes a lawsuit to the court. The case, which was filed at the Central Jakarta District Court, is related to alleged match-fixing practices that impact Persib's relegation to Liga 2 next season. The Persib Lovers' Lawsuit is registered under Case Number 211/Pdt.G/2022/PN Jkt.Pst.

The plaintiff's lawsuit demands that the District Court cancel the Results of the Match of Defendant II, namely Persib Bandung, and Defendant III, namely Barito Putera, or at least they asked for a rematch witnessed by the audience. Another claim in the suit is to ask the judge, a quo who examined and adjudicated the case to declare the match to be Unlawful Act and be judged to be detrimental to the Plaintiffs. Not stopping there, the petition also contains that the Plaintiffs requested that Relegation against Persib be declared null and void and prohibited one of the Persib players, namely David Da Silva, from playing in the Indonesian league, this was because the Plaintiffs judged that the player deliberately did not score a goal through the penalty spot.

The above lawsuit became interesting because issues related to sports disputes were filed in district court. Therefore, this article wants to discuss the position and function of the District Court of the first instance based on the perspective of *ius constitutum* and the extent to

² La Ode Husen, *Negara Hukum, Demokrasi Dan Pemisahan Kekuasaan* (Makassar: CV. Social Politic Genius (SIGn), 2019), 100.

³ Susani Triwahyuningsih, "Perlindungan Dan Penegakan Hak Asasi Manusia (Ham) Di Indonesia," *Legal Standing : Jurnal Ilmu Hukum*: 1-15

⁴Martha Eri Safira, *Hukum Acara Perdata* (Ponorogo: Nata Karya, 2017), 32.

which the authority of the district court to resolve sports disputes in Indonesia is related to the alleged elephant football case that occurred in Indonesia.

The research of this article uses normative juridical research methods. This research will analyze existing legal facts related to applicable norms (*ius constitutum*). The source of this research consists of books, journals, and applicable laws and regulations.

POSITION AND FUNCTION OF THE DISTRICT COURT OF THE FIRST INSTANCE BASED ON THE PERSPECTIVE OF IUS CONSTITUTUM

The District Court is. The judicial institution is at the first level outlined in law 48 of 2009 concerning judicial power. This is also emphasized by Law No. 2 of 1986 concerning the general judiciary, which explains that the District Court is a court of the first instance that organizes justice to uphold law and justice by the 1945 Constitution.

The judicial system is also understood to be related to judicial power, which is the power to administer an independent judiciary in accordance with the 1945 constitution. This power is undoubtedly associated with free judges in all interventions when handling cases. In the judicial power system in Indonesia itself, judicial power is exercised by the Supreme Court of the Republic of Indonesia, including the District Court, which is also part of the general judiciary. In line with this, the District Court is a crucial element in exercising judicial power independent from all forms of intervention in Indonesia.⁵

As we understand, Indonesia adheres to the state law system and adheres to the Trias Politika. Apart from this, there is still a lot of debate about whether Indonesia uses pure Trias Politika. Still, in Indonesia, there are currently three institutions, namely executive institutions consisting of the government. Then the legislative institution consists of DPD and MPR, and the judicial institution, which is related to the judicial institution, consists of MA, MK, and KY.

The District Court exists as an institution that. Performing. His duties as the executor of judicial power in first instance, the District Court usually discusses cases in the first instance, such as in civil known torts and Torts, criminal cases, and also other issues in the first degree.

This is confirmed in Law No. 2 of 1986 concerning the General Judiciary. This is written in article 50, which states that the District Court has the authority to examine and decide criminal and civil cases of the first degree.

⁵Jimly Asshiddiqie, *Pengantar Ilmu Hukum Tata Negara Jilid 1, Buku Ilmu Hukum Tata Negara*, I, vol. 1 (Jakarta: Sekretariat Jenderal dan Kepaniteraan Mahkamah Konstitusi RI, 2006), 25.

Based on what is contained in the *ius constitutum* above, it is clear what the District Court has authority for unless the statute states otherwise. What is stated above is. The authority should only be owned by the District Court and nothing more than that, considering that Indonesia is a country of law. Also, Indonesia adheres to the civil law system. Then, the authority of the District Court is what is written in the law so that there are limits on the authority in handling cases that have entered the court. This certainly needs to be understood by everyone considering that the authority of the District Court is quite limited, so not all cases can be handled by the District Court.

In addition to the primary duties referred to above, the District Court has the following functions:

1. Judicial power, in this function, the District Court will examine, adjudicate and resolve cases in the court of the first instance.
2. The function of coaching is the function of conducting direction and guidance to the officials of the district court.
3. Supervisory function: The function given to the District Court to conduct supervision relating to the code of ethics of Judges, clerks, substitute clerks, Bailiffs and other ranks.
4. Administrative function, in this function, the District Court shall administer judicial and general administration.
5. Advisory function the District Court has a role. Provide advice and consideration to government agencies located in the jurisdiction in which the court is established.

If we look at how the rules have been written above, we can draw the root of the problem that this article explained regarding the authority of the District Court only in the first instance, which relates to both criminal and civil. We do not find that the District court uses its authority to decide and examine sports-related cases.

AUTHORITY OF THE DISTRICT COURT IN EXAMINING AND DECIDING SPORTS DISPUTES

Authority is what a judicial institution must have; authority is usually obtained through three ways, namely Attribution, delegation, and mandate.⁶ This emphasizes that in Indonesia, it is not allowed to commit an *abuse of power* or arbitrariness. Regarding the district court's

⁶ Moh Gandara, "Kewenangan Atribusi, Delegasi Dan Mandat," *Khazanah Hukum* 2, no. 3 (2020): 92–99.

authority, in Law No. 2 of 1986 concerning the General Court, article 50 explains that the District Court has the duty and authority to examine, decide, and resolve criminal and civil cases in the first instance. This rule does not explicitly address the authority of district courts for sports.⁷

In other regulations in law No. 3 of 2005 concerning the National Sports System, it is not also regulated regarding the authority of the District Court to handle sports dispute cases. This causes a legal vacuum that occurs.⁸

The problem that arises, on the one hand, is that the problem of sports is so complicated, and increasingly in Indonesia, this is inseparable from the legal loopholes that occur there, so that it can be exploited by various parties to get the greatest benefit. Various problems arise in the world of sports in Indonesia, especially football; cases such as mobbing supporters, soccer gambling, to score setting (match fixing) have adorned the world of football too much. Another case that occurred and was hotly discussed was related to a lawsuit by Persipura lovers against Persib Bandung and Barito Putera, which was registered at the Central Jakarta District Court.

As outlined above, the lawsuit was filed on the pretext that there had been an alleged score setting in the match between Persib Bandung and Barito Putera. The reason this lawsuit was filed by persipura lovers was because Persipura felt aggrieved by the match. In line with this, persipura considered that there was an effort to regulate the score made by both parties, which led to the lawsuit finally being filed at the Central Jakarta District Court.

What needs to be understood is how the District Court can decide cases related to sports disputes. Meanwhile, in the law, none of them make it clear that the District Court has such authority. This is undoubtedly an exciting note to discuss in this article because there have been many cases in Indonesia. Instead, the football case was settled in the District Court. However, the District Court in law 2 of 1986 does not provide for the authority to decide sports cases.⁹

⁷ Muhammad Zulhidayat, Atma Suganda, and Imran Bukhari Razif, "Political Law of The Government in A Special Naturalization of Indonesian Football Players Based on Welfare State Theory," *Eduvest - Journal Of Universal Studies*.

⁸ Muhammad Zulhidayat, "Disfungsi Peran Satgas Anti Mafia Bola Dalam Memberantas Match Fixing Sepakbola Indonesia," *Jurnal Ilmiah Dunia Hukum* 6, no. 2 (October 14, 2022): 93.

⁹ Muhammad Ajid Husain, "Statuta Pssi Dalam Hierarki Peraturan Perundang-Undangan Di Indonesia," *Al-Adl : Jurnal Hukum* 14, no. 1 (2022): 110.

In the past, there have also been cases of default that were eventually taken to the District Court. Even though this is not the case with a question mark until this moment, For example, we take from the point of the ultimate Bambang, who, at that time, his salary was not paid by the Persija Jakarta Bambang pamungkas through his attorney, stated that he sued Persija Jakarta because of default in the contract agreement between the two parties.¹⁰

Another case also occurred in 2018, namely Between Sriwijaya FC players and team management; as many as 28 Sriwijaya FC players filed a lawsuit with the Palembang District Court because the management was judged to have committed an act of default by not paying a player's salary of 2.9 M during the 2018 season. The players, accompanied by a lawyer from the Indonesian professional footballers' association (APPI), registered the lawsuit filing. In the content of the lawsuit, the players sued Sriwijaya FC because they had not paid the player's salaries.

Many cases are actually in the realm of sports, but because there is no familial settlement between the players and the management, the lawsuit was filed in the District Court because it was judged that the management committed a default. Indonesia can see what is happening abroad. We can see how the role of the Court of Arbitration of Sport (CAS) in Switzerland in resolving cases related to sports disputes. Therefore, in this article, it is necessary to discuss this matter so that a court is initiated that specifically handles sports dispute cases that are increasingly increasing day by day in Indonesia, and there needs to be special handling related to these disputes.

If we correlate with the case that occurred between Persipura Jayapura, which was relegated to Liga 2, and Persipura Jayapura considered that there was a fraud made by Persib Bandung and Barito Putera, then this has entered the realm of sports no longer related to criminal and civil.

Moreover, in this case, Persipura Jayapura, in its lawsuit, asked the District Court to cancel the match between Persib Bandung and Barito Putera. In fact, according to the existing rules in law number 2 of 1986, the District Court should not have the authority to examine deciding cases related to sports disputes because such matters should be resolved by the football federation itself, or as another solution, Indonesia must have a court specifically related to sports, not a District Court.

¹⁰ Raka Fauzan Hatami, "Perjanjian Kerja Antara Pemain Sepak Bola Dan Klub Sepak Bola Indonesia Dengan Lex Sportiva Dan Undang-Undang Ketenagakerjaan," *Jurnal Wawasan Yuridika* 3, no. 1 (2019): 93.

It is a very interesting idea, of course, if Indonesia can follow the example of the European Union, which has a court of arbitration of sports and is indeed given the authority to examine and decide sports-related cases. If Indonesia wants to have a court specifically related to sports, then there needs to be a change related to the existing laws and regulations so that if a court is formed that specifically handles sports, there is an umbrella act. This basic rule of law will be the foundation of the establishment of such courts. So, according to positive law, the presence of a special court of sports is not illegal.¹¹

If we look at the current positive law also does not provide for the Settlement of sports disputes, but there it only explains that if there is no agreement between the two parties, it will be resolved arbitrarily. However, this interpretation of arbitration also creates confusion because there are now 2 Arbitration Bodies in Indonesia that claim to be legally able to handle cases related to sports in Indonesia.¹²

This is also motivated by the dualism that occurs in the Indonesian sports arbitration process, namely the existence of BAKI and BAORI. The lack of arbitrators who have good qualifications is also a challenge in resolving disputes through sports arbitration in Indonesia, so in the future, it is necessary to initiate training and education about prospective arbitrators who really master related to sports disputes.¹³

Nowadays, sports are no longer related to a hobby, but sports have now developed in the industrial world so that there is a law that is able to handle all cases related to the world of sports. Suppose the world of sports is very dynamic, of course. In that case, the law should also be following dynamic developments so as not to cause a legal vacuum in the laws and regulations in Indonesia. Sports issues are certainly growing.¹⁴ Every day, there needs to be a specific rule about it. The rules regarding the National Sports System are also considered very old, and some rules are not by current conditions or have been left behind by the times. There needs to be a material change related to the content of the legislation.¹⁵

¹¹ Dodi Haryono, "Metode Tafsir Putusan Mahkamah Konstitusi Dalam Pengujian Konstitusional Undang-Undang Cipta Kerja," *Jurnal Konstitusi* 18, no. 4 (2022): 774.

¹² E C Nugroho and T Effendi, "Korelasi Lex Sportiva Dengan Hukum Pidana Terhadap Tindak Pidana Di Dalam Sepak Bola Indonesia," *Simposium Hukum Indonesia* 1, no. 1 (2019): 1–7.

¹³ Muhammad Zulhidayat, "Constitutional Comparison Between Indonesia and Switzerland Constitutions Regarding The Mechanism Of Constitutional Amendment," *Activa Yuris* 1, no. August (2021): 1–9.

¹⁴ Eko Noer et al., "Peranan Kementerian Hukum Dan Ham Dalam Melindungi Hak Eksklusif (Merek) Klub Sepak Bola Profesional Di Indonesia (The Role of the Ministry of Law and Human Rights in Protecting the Exclusive Rights of Professional Football Clubs in Indonesia)," *Jurnal Penelitian Hukum De Jure* 21, no. 1 (2021): 75–90.

¹⁵ Muhammad Zulhidayat, "Anomali Pembubaran Badan Olahraga Profesional Indonesia (Bopi) Melalui Perpres No.112 Tahun 2020," *Khatulistiwa Law Review*.

CONCLUSION

The District Court is a judicial institution domiciled in the general judicial environment and has the function of examining, decoding, and resolving criminal and civil cases at the first level. The results of the analysis of this article show that the District Court does not have the authority to decide sports dispute cases, especially in the case of Persipura Jayapura, which in its lawsuit asked to renege on the match between Persib Bandung and Barito Putra, which resulted in Persipura Jayapura being relegated to Liga 2. Indonesia should make changes to the applicable laws and regulations so that there is no legal vacuum related to handling sports cases. So that if there is a case in sports, there is a special court that handles sports cases, not devolved to the District Court. There needs to be an idea with regard to sports-specific courts such as those in Switzerland, namely the presence of a court of arbitration of sport.

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