

CHAPTER ONE

INTRODUCTION

A. Background

Football players or footballers are classified into two categories; amateur and professional. Amateur footballers are the players who play without joining professional football club and/or who does not bind with the legality or written contract while professional footballers are the players who have a written contract with a professional football club.¹ Nowadays, either amateur or professional players have a very promising future with reasonable salaries as long as they own expertise or special skills to play.

Like other professions, the footballers also have to obey the rule, regulation, and law. In legal point of view, the professional footballers and football clubs are bound in working contract and thus it has legal relationship. Establishing agreement or contract in Indonesia is made after all parties agree on all rights and obligations. In this regard, then the labour Law No. 13 Year 2003 is applied to football working contract implementations.

In the contract, it is stated that footballers as a worker and the clubs as the employer. During the implementation of the contract, sometimes there have some disputes. In this case, the footballers more often became the victim and usually are

¹ Article 2, PSSI Regulation on Status and Player's Transfer.

suffered so much such as the case of Rahmat Afandi, former striker of the Persebaya² who play in Indonesian football league. Affandi's contract was terminated unilaterally by the management of Persebaya due to his long-term injury.³ Persebaya terminated his contract in unilateral decision. He hasn't received full recovery treatment and his contract was terminated by Persebaya. The club against the Article No.35 Paragraph 3, Law No. 13 Year 2003.⁴ Neverthelsss, the club—Persebaya—paid no attention to its injured footballers.

The most extream case was the Diego Mendieta dispute with Persis Solo⁵ . He passed away at Dr. Moewardi Hospital, Solo, due to illness in 2012. According to doctors, he was infected with a virus that spread to all parts of the body, even to the eye and brain. He also suffered from candidiasis fungus in the throat up to the digestive tract, and positively suffered from dengue fever. The heartbreaking reality to the Paraguay-born attacker, he had been treated at two different hospitals and boarding house with insufficient treatment. The reason, his salary for four months,

² Persatuan Sepak bola Surabaya is a Professional Football Club from Surabaya, abbreviated as *Persebaya*.

³Redaksi, "Perlakuan Tidak Adil Persebaya terhadap Rachmat Affandi", available at <http://panditfootball.com/cerita/208667/RDK/170510/perlakuan-tidak-adil-persebaya-kepada-rachmat-afandi>, accessed on 1 May 2017, at 7:07 p.m.

⁴ Article 35 Paragraph 3, Law No. 13 Year 2003," The employer referred to in paragraph (1) in the employment of workers shall provide protection covering the welfare, safety and health of both mental and physical labor".

⁵ Persatuan Sepak bola Indonesia Solo is a Professional Football Club from Surakarta, abbreviated as *Persis Solo*.

about IDR 100 million, has not been paid by Persis Solo until his last death.⁶ Persis violated Article 88 Paragraph 1, Law No. 13 Year 2003.⁷

However, there was no legal effect to both clubs Persebaya and Persis Solo due to their treatment to their former footballers. The regulations and the sanctions mentioned in the working contract were unclear. Affandi or Mandieta didn't seek for justice, because the duration settlement process and actually the settlements was costly. These two cases are just a few of the facts which proved that the implementation of working contract between footballers and clubs in Indonesia is still often overwhelmed by several problems.

According to the Association of Indonesian Professional Footballers or *Asosiasi Pesepek bola Profesional Indonesia* (APPI), there are several options to settle the football contractual dispute in Indonesia. The options usually written in the working contract between professional footballers and professional football club. Some options are Court of Arbitration Sport (CAS), Dispute Resolution Chamber (DRC), National Dispute Resolution Chamber (NDRC), Sporting Arbitration Body of Indonesia (Badan Arbitrase Keolahragaan Indonesia or BAKI), Administrative Court, District Court, PSSI Statue, League statue and etc. APPI which actively and passively becomes an advocacy body for professional footballers has complaints about contractual disputes, explaining that the options of dispute resolution forums for

⁶Redaksi, "Istri Diego Mendieta: Suami Saya Ditelantarkan", available at <https://sport.detik.com/sepakbola/liga-indonesia/2109933/istri-diego-mendieta-suami-saya-ditelantarkan>, accessed on 10 May 2017, at 9:00 p.m.

⁷ Article 88 Paragraph 1, Law No. 13 Year 2003, "Every worker / laborer is entitled to income that fulfills a decent living for humanity".

contractual disputes in Indonesia is too many choices but less accommodating, especially to the footballers.⁸

The meeting between *Federations Internationale de Football Association* (FIFA), European Club Association (ECA), *Federations Internationales des Footballleurs Professionels* (FIFPro) and PSSI on 8 – 10 February 2017 in Jakarta was discussing on the establishment of the National Dispute Resolution Chamber (NDRC) for Indonesian football.⁹ The NDRC hopefully should settle down the contractual dispute between professional footballers and club in Indonesia with non-litigation ways.

In the absence of the NDRC, the contractual dispute usually was mediated and arbitrated by commission formed by PSSI. However, this way tends to be biased, due to the huge bargaining position of clubs in front of the federation. So, the fair and accommodative dispute settlement body is urgently needed by Indonesian footballers.

⁸ APPI GM Notes, "Forum Penyelesaian Perselisihan dalam Kontrak Pesepakbola di Indonesia Masih Berbeda-beda", available at <http://www.appi-online.com/forum-penyelesaian-perselisihan-dalam-kontrak-pesepakbola-di-indonesia-masih-berbeda-beda/>, accessed on 17 May 2017, at 3:00 p.m.

⁹Redaksi, "Hasil Pertemuan FIFA dengan PSSI terkait NDRC", available at <http://pssi.org/in/read/PSSI/Hasil-Pertemuan-FIFA-dengan-PSSI-Terkait-NDRC-7743>, accessed on 20 May 2017, at 9:35 p.m.

B. Problems Formulation

1. What are the football contractual disputes and their settlements in Indonesia?
2. What is the urgency of the establishment of the National Dispute Resolution Chamber for Indonesian footballers?

C. Objective of the Research

1. The research aims to know what kind of contractual disputes of Indonesian football and their settlements.
2. To analyze the urgency of the establishment of the National Dispute Resolution Chamber for football dispute settlement in Indonesia.

D. Benefits of Research

1. Theoretical Aspect

The research can provide insight of legal knowledge and information on private law in sports field and the existence of sports law, especially related to footballing regulation and settlement.

2. Practical Aspect

- a. Propose a better contractual dispute settlement to Indonesian football it also can make comparative studies for other sports disputes settlement body such as PSSI, BAORI and BAKI.
- b. Give an overview for alternative option to settle the contractual dispute among professional footballer and professional club.