

Pengakhiran Kontrak Kerja Berdasarkan Just Cause: Studi Putusan FIFA terhadap Kontrak Kerja antara Pemain Sepak Bola dan Klub = Termination of Employment Contract Based On Just Cause: Study of FIFA's Jurisprudence on Employment Contract Between Football Player and Club

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Abstrak

Penelitian ini dilakukan untuk mengetahui pengakhiran kontrak kerja pemain sepak bola profesional dan klub secara sepihak dengan just cause berdasarkan regulasi FIFA (Federation Internationale de Football Association), penggunaan just cause dalam pengakhiran kontrak oleh para pihak berdasarkan putusan badan penyelesaian sengketa di bidang sepak bola (Putusan FIFA), yaitu FIFA DRC (Dispute Resolution Chamber) dan CAS (Court of Arbitration for Sport), serta mengetahui dikenal atau tidaknya just cause sebagai dasar pengakhiran hubungan kontraktual dalam hukum kontrak Indonesia. Metode penelitian yang digunakan adalah metode yuridis normatif, yaitu dengan menelaah norma-norma hukum transnasional di bidang olahraga sepak bola, seperti Statuta FIFA 2019, Regulations on the Status and Transfer of Players (RSTP) 2019, Commentary on the Regulations for the Status and Transfer of Players (FIFA Commentary RSTP), putusan-putusan CAS, dan putusan-putusan FIFA DRC, serta norma-norma hukum nasional, seperti Kitab Undang-Undang Hukum Perdata (KUHPerdata) dan Undang-Undang No.13 Tahun 2003 tentang Ketenagakerjaan. Hasil penelitian ini menunjukkan bahwa konsep just cause berdasarkan RSTP 2019 dan FIFA Commentary merupakan alasan yang adil untuk mengakhiri kontrak kerja secara sepihak, baik oleh pemain sepak bola profesional maupun klub, yang mana pihak yang mengakhiri kontrak tersebut tidak perlu membayar kompensasi dan tidak dikenakan sanksi olahraga. Contoh keadaan yang termasuk just cause berdasarkan RSTP 2019 adalah abusive conduct (tindakan pelanggaran) dan outstanding salaries (tunggalan gaji). Berdasarkan putusan FIFA, hanya pelanggaran kontrak materil yang dianggap sebagai just cause, serta terdapat enam just cause yang terdiri dari empat just cause bagi klub dan dua just cause bagi pemain sepak bola profesional. Just cause bagi klub adalah kinerja buruk para pemain dalam suatu tim, kurangnya jumlah pertandingan pemain, ketidakhadiran pemain dalam jangka waktu tertentu, dan penyalahgunaan narkoba oleh pemain. Di sisi lain, just cause bagi pemain sepak bola adalah pengecualian dan deregistrasi pemain, serta tunggalan gaji pemain dengan kriteria tertentu. Konsep just cause tersebut tidak dikenal dalam hukum kontrak maupun hukum ketenagakerjaan Indonesia, tetapi dikenal dalam hukum yang diciptakan oleh Persatuan Sepak Bola Seluruh Indonesia (PSSI), yaitu Regulasi PSSI tentang Status dan Transfer Pemain 2014 dengan rumusan "alasan yang adil". Walaupun begitu, pengakhiran kontrak dengan just cause memiliki kemiripan dengan pembatalan perjanjian akibat wanprestasi dalam KUHPerdata.

.....This research is conducted to find out the unilaterally termination of employment contract between professional football player and club with just cause based on FIFA (Federation Internationale de Football Association) regulations, the use of just cause in terminating the contract by the parties based on the jurisprudence of dispute resolution bodies in the field of football (FIFA's jurisprudence), i.e. FIFA DRC (Dispute Resolution Chamber) and CAS (Court of Arbitration for Sport), and to understand whether or not just cause is known as one of the contractual termination in Indonesian contract law. The research method

used is a normative legal research, namely by examining transnational legal norms in the field of football, such as the 2019 FIFA Statutes, 2019 Regulations on the Status and Transfer of Players (RSTP), Commentary on the Regulations for the Status and Transfer of Players (FIFA Commentary RSTP), CAS awards, and FIFA DRC decisions, as well as national legal norms, such as Indonesian Civil Code and Law No. 13 of 2003 concerning Manpower. The results of this research reveal that just cause concept, in accordance to the 2019 RSTP dan FIFA Commentary RSTP, is a fair or good reason to terminate the employment contract unilaterally, both by professional football player and club, where those who terminate the contract free from the obligation to pay a compensation and a sporting sanctions could not be imposed to them. Conditions which are categorized as just cause based on RSTP 2019 are abusive conduct and outstanding salaries. According to FIFA's jurisprudence, only material breaches of contract can possibly be considered as just cause, and there are six just causes consisting of four just causes for clubs and two just causes for professional football player. Just causes for the club are the poor performance of the players in a team, the lack of a number of played matches, the absence of players within a certain period of time, and drug abuse by players. On the other hand, just causes for the football player are the exclusion and deregistration of players, as well as the arrears of player salaries with certain criteria. The just cause concept itself is not recognized by the Indonesian contract law nor the Indonesian labor law, but it is known in the law created by PSSI, i.e. PSSI's Regulation on the Status and Transfer of Players (RSTP PSSI) 2014, with the term "alasan yang adil." Nevertheless, terminating a contract with just cause has similarities with rescission of agreement due to breach of contract in Indonesian Civil Code.