

EXCELLENCE SPORTS DISPUTE RESOLUTION INSTITUTION IN INDONESIA OUTSIDE THE COURT IN THE PERSPECTIVE OF LEGAL CERTAINTY

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Abstract: Sports are an integral part of the national development process and achievement of national goals. Therefore, the presence and role of sports in community, national, and state life must be clearly defined within the national legal system. In sports disputes, the resolution process is conducted through arbitration institutions, where the stages are preceded by written agreements among the parties to settle the dispute using arbitration.

The mechanism for resolving excellence sports disputes in Indonesia outside the court, in order to independently, effectively, and justly settle various matters related to excellence sports, involves a preliminary step of consensus-building conducted by various Branch Sports Organization Bodies. Subsequently, if consensus is not achieved through this mechanism, parties in dispute proceed to the next stage, wherein they create a written agreement regarding the dispute resolution method to be chosen. This can be done through mediation, conciliation, arbitration, serving as pathways for resolving disputes outside the court in the field of excellence sports. In the case of mediation and conciliation chosen by the parties in dispute, these parties can seek assistance from the Central Government or Local Government to facilitate the mediation and conciliation processes. Law Number 3 of 2005 concerning the National Sports System provides a strong legal foundation for the government, local authorities, and the entire society to engage in sporting activities. The goal is to create a society and nation that embraces a lifestyle centered around sports, actively participates, maintains health and fitness, and achieves remarkable success in various sports disciplines. This law also regulates the resolution of disputes related to sports, as explicitly outlined in Article 88. In terms of alternative dispute resolution, several methods can be employed, including negotiation, mediation, conciliation, expert opinions, and other approaches deemed relevant by the parties, in accordance with applicable legal provisions.

Keywords: Dispute Resolution Institution, Excellence Sports Dispute, Legal Certainty

I. INTRODUCTION

Sports law has evolved and become an integral dimension of pure legal studies. Law should play a role in economic development, and it should serve as a guide and reference in building progress. Sports, which used to be a mere pastime enjoyed mainly by the middle and lower classes, have now evolved and spread their wings to become one of the world's largest industries. The state's efforts to achieve general welfare encompass various aspects of life from a broad perspective and dimension, including ensuring activities that stimulate the economic vitality of society, such as sports activities. In terms of athletes, an individual is considered an athlete if they have won a championship in a competition three times in a row. This classification as an accomplished athlete is discussed by Dion Wibawa in 2019. On the other hand, sports achievements serve as a benchmark for a region's progress, necessitating various efforts to achieve optimal performance. Building sports achievements is not as straightforward as constructing physical buildings. A champion in sports does not emerge suddenly but undergoes a lengthy process, requires strong self-discipline, intense and consistent training from an early age, under the guidance of professional coaches. Rusli Lutan points out that sports can be manifested through skills, physical fitness, or a combination of both by demonstrating physical agility (Rusli Lutan, 1988). Sports in a global context are becoming more modern and extending into the industrial and economic sectors. It simultaneously acts as a means of advancing general welfare through income distribution and economic empowerment across different societal strata through various sectors. The sports industry holds significant potential to collectively influence the economic behavior of society. Consequently, the sports industry has the potential to be a sector that significantly impacts poverty alleviation and unemployment mitigation.

The scope of sports encompasses Educational Sports, Community Sports, and Performance Sports. Educational Sports are organized to instill character values and acquire knowledge, skills, and attitudes necessary for cultivating a healthy, active lifestyle throughout life. These are carried out within both formal educational settings through intracurricular and/or extracurricular activities, as well as non-formal settings. Community Sports are activities undertaken by the community based on their interests and capabilities, evolving in accordance with local cultural values and conditions. These activities are pursued continuously for the sake of health, fitness, and enjoyment. Community Sports can be engaged in by individuals, educational institutions, organizations, associations, or sports entities. Increasing the quantity of participation and the quality of the fitness of the community engaging in sports would significantly contribute to enhancing sports achievements.

Consistent with Istvan Balyi's statement (2007), "The health and well-being of a nation, as well as the number of medals won in international sports events, are products of an effective sports system" (Zainudin Amali, 2022). Furthermore, Performance Sports involve the systematic, integrated, progressive, and sustained development of athletes through planned competition, aimed at achieving excellence with the support of sports science and technology.

Special sports arbitration institutions are also known in Indonesia; however, they are considered to be less effective and efficient, leading many parties to be reluctant to bring their issues to sports arbitration in Indonesia. Another dimension of the massive development of sports gives rise to the potential for disputes and conflicts of interest that can hinder development and performance enhancement. This is exemplified by disputes within the governing bodies of various sports branches, coupled with the inefficiency of dispute resolution processes, resulting in legal uncertainty. Certainty is an integral characteristic of law, particularly for written norms. Law devoid of legal certainty loses its significance as it can no longer serve as a guide for behavior. Certainty is recognized as one of the objectives of law. Historically, discussions on legal certainty have emerged since the idea of separation of powers by Montesquieu, as cited by Jan M. Otto in Sidharta's book (Sidharta, A, 2016). It's stated that legal certainty can be achieved when the substance of the law aligns with societal needs. Legal rules that can create legal certainty are those born from and reflect the culture of society. This kind of legal certainty is referred to as realistic legal certainty, which requires harmonious alignment between the state and the people in their orientation and understanding of the legal system. Legal certainty is the implementation of law according to its content, allowing society to ensure that the law is upheld. When understanding the value of legal certainty, it's important to recognize that this value is closely related to positive legal instruments and the role of the state in actualizing it within positive law (Fernando M. Manullang, 2007:95).

According to Law Number 11 of 2022 Regarding Sports, Article 102 regulates the resolution of performance sports disputes. It stipulates that the resolution of sports disputes should be attempted through consultation and consensus conducted by the Governing Bodies of Sports Branches. Furthermore, if consultation and consensus are not achieved, the disputing parties create a written agreement regarding the chosen dispute resolution method, which can include mediation, conciliation, or arbitration. In the context of performance sports dispute resolution, there exists uncertainty regarding the resolution of disputes within sports arbitration institutions, despite Indonesia having two such institutions: the Indonesian Sports Arbitration Board (BAKI) and the Indonesian Sports Arbitration Board (BAORI). BAKI is established by the Indonesian Sports Committee (for branches contested in the Olympics), while BAORI is established through the National Sports Committee (KONI).

The national positive law has constructed the regulation of sports within Law Number 11 of 2022 concerning Sports, which was enacted and promulgated on March 16, 2022, mandating the implementation regulations to be completed within 2 (two) years after its enactment, namely:

1. Nine Government Regulations regulate the following aspects:
 - a. Responsibilities, authorities, and duties of the Central Government and Regional Governments (Article 16).
 - b. Coaching and development of sports (Article 32).
 - c. Management of sports (Article 42).
 - d. Indonesian Olympic Committee, Indonesian Paralympic Committee, organization of national sports events, responsibilities of Regional Governments, Parent Organization of Sports Branches, organization of international sports events, requirements for hosting sports championships, spectators, and supporters (Article 56).

- e. Change of athlete status, professional athletes, athlete transfers, rights and obligations, coaching and development, sports mentors, and sports personnel (Article 72).
 - f. Sports facilities (Article 74).
 - g. Sports funding (Article 81).
 - h. Development of sports science and technology (Article 84).
 - i. Oversight of sports organization (Article 101).
2. Four Presidential Regulations cover the following:
 - a. National sports master plan (Article 12), which has been issued as Presidential Regulation Number 86 of 2021 concerning the National Sports Master Plan (DBON).
 - b. Procedure for designating sports infrastructure and fulfillment of obligations by enterprises engaged in housing and settlement development (Article 73).
 - c. Trust fund (Article 82).
 - d. Sports awards (Article 99).
 3. Two Ministerial Regulations cover the following:
 - a. Procedure for suspension and/or conversion of sports infrastructure (Article 73).
 - b. Standardization, accreditation, and certification (Article 97).

Currently, the implementation regulations that still exist and have not been amended/revoked, and are more operational, include Government Regulation (PP) Number 16 of 2007 concerning sports organization, PP Number 17 of 2007 concerning the Organization of Sports Weeks and Championships, PP Number 18 of 2007 concerning Sports Funding, and PP Number 7 of 2020 concerning Amendments to Government Regulation Number 17 of 2007 concerning the Organization of Sports Weeks and Championships.

Sports are organized based on Pancasila (the foundational philosophical theory of Indonesia) and the 1945 Constitution of the Republic of Indonesia. Sports function to develop physical, spiritual, and social abilities, as well as to shape the dignity of the nation's character and personality. The objectives of sports are to:

1. Preserve and enhance health and fitness, performance, intelligence, and human quality;
2. Instill moral values and noble ethics, sportsmanship, competitiveness, and discipline;
3. Strengthen and foster national unity and unity;
4. Reinforce national resilience;
5. Elevate the dignity and honor of the nation; and
6. Maintain world peace.

In order to maintain and enhance Performance Sports in Indonesia in line with the sports objectives, various weaknesses, issues, and constraints are still found. The challenges and issues within this sports development system are suspected to be factors contributing to the stagnation of the sports development system in Indonesia over the past few decades. Therefore, sports development needs to be propelled to become an integral part of the national development system by all parties involved. One of the obstacles in sports development is the occurrence of sports disputes within the scope of Performance Sports, which consequently disrupts the optimal development of performance sports, as seen in the case of the Parent Organization of Sports Branches, such as the Indonesian Table Tennis Association (PTMSI). There are numerous potentials for disputes within sports organizations, both amateur and professional. In professional sports, the issues are more complex due to financial interests, player transfers, and contracts being involved. As for the forms of disputes in performance sports in Indonesia, they can occur in various contexts, including:

1. Amateur Sports
 - a. Conflicts in the process of forming leadership, especially the competition for the chairman position.
 - b. Transfer of athletes from one province to another, or from one district/city to the next within the same province, especially before national events like national sports weeks or provincial sports weeks. These transfers cannot be prevented and are personal rights, but they need to be regulated to maintain order within the development system.
2. Private Law, within the realm of civil law
 - a. Between players and clubs, for instance, concerning late payment of wages and player rights, transfer disputes, imposing sanctions on players who violate club rules.
 - b. Between players, for example, disputes over jersey number usage or player altercations on and off the field.

- c. Between players and coaches, such as disputes over coach changes, fee or bonus distribution.
 - d. Between clubs, for example, disputes related to player or coach transfers.
 - e. Between clubs and the parent sports branch organization, for instance, disputes regarding the enforcement of disciplinary sanctions imposed by the event organizing organization on a club or club player that violates the rules.
 - f. Between clubs and event organizing organizations, for example, disputes over match results, player violations, and the imposition of penalties/sanctions, club penalties.
 - g. Between central and regional branch organization officials; for instance, disputes over authority, freezing regional branch officials.
 - h. Within regional sports branch organizations, for example, disputes over athlete/athlete piracy or transfers.
 - i. Among fellow sports organization officials, such as disputes over legal aspects or the validation of leadership and interpretation of the Articles of Association/Bylaws (AD/ART).
3. Other Civil Areas, for example, disputes related to other sports stakeholders, including disputes involving coaches, sports mentors, club or event sponsors/companies, event organizers, sports facility providers, and other parties.
 4. Public Law, encompassed within the realm of Administrative Law, includes disputes between the Central Government and regional governments.
 5. Institutional Approach encompasses disputes related to organization/leadership and disputes.

There are quite a number of potential disputes within sports organizations, both amateur and professional. In professional sports, the issues are more complex due to financial interests being involved. The forms of disputes in amateur sports most commonly involve conflicts in the process of forming leadership, especially the competition for the position of chairman, athlete transfers or movements from one province to another, or from one district/city to the next within the same province, especially leading up to national events such as the National Games (PON) or provincial sports events (PORPROV). These transfers cannot be prevented and are a personal right, but they need to be regulated to maintain order within the development system. In professional sports, the issues are more intricate, particularly concerning player transfers from one club to another. This usually results from unilateral contract termination, compensation rules from the receiving club to the player's original club, and the player/athlete involved. From the athlete's perspective, based on dispute analysis, issues can arise in terms of their profession and contracts. The employment relationship between clubs and athletes in professional sports, especially regarding the fulfillment of athlete's rights as stipulated in the agreed-upon employment contract. From an organizational aspect, disputes can occur at various levels: at the central level of the Parent Organization of Sports Branches, at the provincial level, at the district/city level, and even at the lowest level of the sports branch organization, such as disputes among coordinators of sports branch training units or sports schools at the sub-district or village level. Not all of these disputes reach the court system. Many of them can be resolved outside the court, through consensus-building within the Parent Organization of Sports Branches, arbitration, or other alternative dispute resolution methods agreed upon, such as using sports arbitration institutions or mediators.

The interpretation of disputes in the sports ecosystem encompasses sports participants, athlete mentors, athletes, and sports organizations that will be resolved through Sports Arbitration, limited to disputes within the scope of civil law. This is in line with the provisions of Article 58 of Law Number 48 of 2009 concerning Judicial Authority, which essentially allows for the resolution of civil disputes outside the court through arbitration. The relevance of the form of sports disputes within the civil law scope, to be resolved by an independent Arbitration Body to be formally established by the government, can be understood as a way to ensure that positive legal systems can harmonize with the community legal systems established by global sports bodies, in this case, the Olympic Charter that serves as the comprehensive constitution for all its members, reflected in each sports organization, including the International Olympic Committee (IOC), International Federations (IFs), and National Federations (NFs). Various models of dispute resolution, both formal and informal, can be used as references to address disputes that may arise as long as they uphold justice and benefit. The statutes of international sports federations fundamentally do not intend for the involvement of states, including judicial bodies. This situation makes arbitration the most logical choice for parties to settle disputes. Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (Arbitration and ADR Law), Article 1 Paragraph (1) states, "Arbitration is a method of settling a civil dispute outside the general court system based on an arbitration agreement made in writing by the disputing parties." Settling disputes through arbitration must be based on mutual consent. The validity of the arbitration agreement must comply with Article 1320 of the Civil Code regarding choice of law clauses, where the

parties are free to determine the applicable law for resolving disputes that may or have arisen between them. Article 1 Paragraph (10) states, "Alternative Dispute Resolution is a dispute resolution institution or difference of opinion through procedures agreed upon by the parties, namely the resolution of disputes outside the court through consultation, negotiation, mediation, conciliation, or expert assessment."

II. METHODE

The chosen research method to analyze the issues described above is the normative juridical research method. This method emphasizes the applicable legal norms, also known as *ius constitutum* (Soerjono Soekanto and Sri Mamudji, 2009). This approach aims to examine the issues by referring to existing laws and identifying relevant normative aspects. In this article, the research findings will be presented in a descriptive-analytical form. This approach allows the author to provide a in-depth overview of the studied issues through careful analysis. This research will adopt a doctrinal legal approach, wherein the focus is centered on the concepts and rules within the legal field. Throughout this process, the article will utilize a literature review method to explore relevant and in-depth sources that support the conducted analysis.

Thus, the chosen research method will not only facilitate a better understanding of the discussed issues but also provide a robust framework for analyzing various relevant normative aspects. Through this approach, it is expected that this article will offer valuable insights and make a significant contribution to the understanding of the described legal issues.

III. RESULT AND DISCUSSION

The development of sports not only has a positive impact on a person's physical well-being but also significantly influences the development of law, including in the resolution of disputes in the field of sports. Such resolution can be carried out through a court institution, often known as the litigation process, or through a mediation institution, also known as the non-litigation process (Khairuddin, 2017). In accordance with the provisions of the legal regulations stated in Article 102 of Law Number 11 of 2022 concerning Sports, the resolution of sports disputes is sought through consultation and consensus conducted by the Parent Organization of the Sports Branch. The resolution of performance sports disputes, as per Article 102 of Law Number 11 of 2022 concerning Sports, involves an initial stage of consultation and consensus conducted by the Parent Organization of the Sports Branch. Therefore, in the context of dispute resolution involving consultation and consensus within each of the 71 Parent Organizations of the Sports Branch, there is a requirement to establish respective dispute resolution organizations/structures/institutions. This way, the resolution of sports disputes can be agreed upon and resolved internally within the relevant Parent Organizations of the Sports Branch, such as the Indonesian Table Tennis Association (PTMSI), the Indonesian Badminton Association (PBSI), the Indonesian Basketball Association (PERBASI), the Indonesian Athletics Association (PASI), and others.

The Parent Organization of Sports Branch that currently has a dispute resolution institution is the All Indonesia Football Association (PSSI), namely in the form of the National Dispute Resolution Chambers (NDRC) Indonesia. There is a duality of sports arbitration in Indonesia, namely the Indonesian Sports Arbitration Body ("BAKI") and the Indonesian Sports Arbitration Body ("BAORI"). BAKI was established by the Indonesian Olympic Committee ("KOI") for the branches contested in the Olympics, while BAORI was formed through the Indonesian National Sports Committee ("KONI"). The tasks of KOI and KONI themselves can be analyzed from their tasks and functions, one of which is to determine where disputes can be brought, as mandated in Article 44 Paragraph (2), Paragraph (3), and Paragraph (4) of Law 3/2005. Article 36 Paragraph (1) of Law 3/2005 states that the parent organization of sports branches forms a national sports committee. The phrase "sports committee" in this regard, based on Constitutional Court Decision Number 19/PUU-XII/2014, contradicts the 1945 Constitution and does not have legally binding force as long as it is not interpreted as "Indonesian National Sports Committee and other national sports committees." The "sports committee" referred to in Article 36 Paragraph (1), Paragraph (2), and Paragraph (3), Article 37 Paragraph (1), Paragraph (2), and Paragraph (3), Article 38 Paragraph (1), Paragraph (2), and Paragraph (3), Article 39, and Article 46 Paragraph (2) of Law 3/2005 is declared to be in contradiction with the 1945 Constitution and does not have legally binding force unless interpreted as previously explained.

Indirectly, it can be understood that the tasks of KONI and other national sports committees can be seen in Article 36 Paragraph (4) of Law 3/2005, which states:

1. Assist the Government in formulating national policies in the field of management, development, and enhancement of performance sports at the national level.
2. Coordinate the parent sports branch organizations, functional sports organizations, as well as provincial and district/city sports committees.
3. Implement the management, development, and enhancement of performance sports based on its authority.
4. Execute and coordinate multi-championship sports events at the national level.

Looking at KONI's Articles of Association, Article 41 paragraph (1) states that KONI establishes the Indonesian Sports Arbitration Body (Badan Arbitrase Olahraga Indonesia or BAORI) as a body to settle disputes arising from violations of:

1. The Articles of Association and Bylaws.
2. Other regulations stipulated by KONI or its members.
3. Conflicts of dual leadership.
4. Violations during the National Sports Week (as the Council of Judges).
5. Other conflicts related to sports organization development.

What is interesting here is that for the disputes mentioned above, their resolution is prohibited from being brought to any jurisdiction in Indonesian courts. This provision can indirectly be seen as conflicting with the provision in Article 88 paragraph (3) of Law 3/2005 which states: "If the dispute settlement as referred to in paragraph (2) is not achieved, the dispute settlement can be carried out through the court that is appropriate to its jurisdiction."

It is also mentioned that BAORI's decisions are final and binding for the disputing parties within the legal jurisdiction of the Unitary State of the Republic of Indonesia.

1. Dispute Resolution under Civil Law

Resolving Civil cases usually offers two paths for the disputing parties: litigation and non-litigation routes. Litigation refers to handling cases through the legal process in courts, whether civil or criminal cases. On the other hand, non-litigation involves resolving legal issues outside the court process. This non-litigation path is known as alternative dispute resolution. Settlement of cases outside of the court is recognized in Indonesian legislation. Non-litigation is generally conducted in civil cases only due to its private nature. Non-litigation takes various forms to resolve disputes, such as:

- a. Negotiation
- b. Mediation
- c. Arbitration

Civil procedural law is a branch of public law because its purpose is to uphold and maintain legal order for the common good through the most effective means (doelmatig). Therefore, civil procedural law includes rules that are obligatory or "imperative." These regulations are designed to maintain order and are considered necessary to preserve public order. Additionally, there are regulations that are not imperative but also serve a regulatory purpose (regelend) and are aimed at safeguarding the interests of the parties involved in legal proceedings. The fundamental principles of national law in the field of Civil Procedural Law are: simplicity, equality of the parties, active role of the judge, leading the proceedings, conducting hearings in the form of oral questioning, open to the public, decisions based on sufficient consideration, and resolving cases within a reasonable timeframe. Dispute resolution through Non-Litigation is recognized as alternative dispute resolution (ADR). FA Fadillah and Saskia Amalia Putri (2021) explain that under the perspective of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, Alternative Dispute Resolution is a mechanism for settling disputes outside of court based on agreements between parties, disregarding litigation in court. In the provision of Article 1320 of the Civil Code that requires the presence of agreement and capacity to make an agreement, it is considered a subjective requirement as it pertains to the parties involved in the agreement. Meanwhile, the presence of specific conditions and valid reasons for making an agreement are referred to as objective requirements, concerning the agreement itself. Arbitration institutions still have a dependency on the court, for instance, in the enforcement of arbitration awards. There is an obligation to register arbitration awards in a district court, indicating that arbitration institutions lack the coercive power over the parties to comply with their decisions. The role of the court in the

implementation of arbitration, based on arbitration laws, includes matters concerning arbitrators or arbitration panels when the parties do not reach an agreement as per Article 14 (3), and in the enforcement of both national and international arbitration awards, which must be carried out through the judicial system by registering the award, with authentic copies provided for international arbitration cases that take place in the court.

2. Resolution of Performance Sports Disputes

According to Law Number 3 of 2005 concerning the National Sports System, which has been repealed by Law Number 11 of 2022 concerning Sports, the resolution of performance sports disputes is governed by Article 88, which states the following:

- a. The settlement of sports disputes is attempted through deliberation and consensus conducted by the parent sports branch organization.
- b. In the event that deliberation and consensus as referred to in paragraph (1) are not achieved, the resolution of disputes can be pursued through arbitration or alternative dispute resolution in accordance with prevailing regulations.
- c. If the dispute settlement as referred to in paragraph (2) is not achieved, the dispute can be settled through the appropriate court within its jurisdiction.

One of the rapidly developing forms of alternative dispute resolution is mediation. In Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, the definition and regulation of mediation are not explicitly mentioned. However, in Article 6, paragraphs (3), (4), and (5), it can be seen that mediation is also recognized as one of the forms of alternative dispute resolution (Rachmadi Usman, 2012). Based on Law Number 11 of 2022 concerning Sports, Article 102, Paragraph 6, states that the Central Government facilitates the establishment of one independent and effective Sports Arbitration institution, which serves as the institution for resolving performance sports disputes in Indonesia. This institution ensures legal certainty, fairness, and its decisions are final and binding. Regarding alternative dispute resolution, it is implemented through negotiation, mediation, conciliation, expert opinions, and other methods necessary for the parties in accordance with the provisions of the regulations.

Looking into the Articles of Association of the Indonesian National Sports Committee (KONI), Article 41, Paragraph (1) states that KONI establishes the Indonesian Sports Arbitration Body, abbreviated as BAORI, as an institution to resolve disputes arising from violations:

1. Articles of Association and Bylaws
2. Other regulations determined by KONI or its members
3. Conflicts related to dualism of leadership
4. Violations during the National Sports Week (as the Arbitration Council)
5. Other conflicts related to organizational sports development.

As an initial step, the Ministry of Youth and Sports, as the Central Government, promptly facilitates this by forming an Assistance Team for the Establishment of the Sports Arbitration Body. The Minister of Youth and Sports (Menpora) can issue a Ministerial Decree regarding the Appointment/Designation of the Assistance Team for the Establishment of the Sports Arbitration Body. The tasks of this Assistance Team are:

1. Engage in communication, coordination, and consultation with sports organizations, ministries/agencies, and alternative dispute resolution bodies in preparation for the establishment of the sports arbitration body.
2. Conduct an assessment regarding the institutional structure, procedural rules, and the recruitment process for human resources within the sports arbitration body.
3. Accelerate and strategize steps related to the preparation for the establishment of the sports arbitration body.

The relevance to the provisions stipulated in Article 102 of Law Number 11 of 2022 concerning Sports, which fundamentally does not provide room for the resolution of disputes through national judicial bodies but can be resolved outside the judicial scope through the establishment of Sports Arbitration to be formed by the government. This constructs and reformulates the previous model of sports dispute resolution, which allowed for resolution by the National Judicial Body as regulated in Article 88 Paragraph (3) of Law Number 3 of 2005 concerning the National Sports System. According to Law Number 11 of 2022 concerning Sports, Article 102 regulates the resolution of performance sports disputes, where the resolution

of sports disputes is sought through consultation and consensus conducted by the Parent Organization of the Sports Branch. In the case of mediation and conciliation chosen by the disputing parties, they may request the assistance of the Central Government and/or Regional Government to facilitate the mediation and conciliation process. Furthermore, the resolution of arbitration disputes is carried out by an independent Sports Arbitration body that is singular, and its decision is final and binding, and it is formed based on Olympic charters. The Central Government then facilitates the establishment of the Sports Arbitration body in accordance with the provisions of the regulations. If we look at the rules in Law Number 3 of 2005 concerning the National Sports System regarding the resolution of sports disputes stipulated in Article 88, which has now been revoked by Law Number 11 of 2022 concerning Sports, it is explained as follows:

1. Resolution of sports disputes is sought through consultation and consensus conducted by the parent organization of the sports branch.
2. In the event that the consultation and consensus as referred to in Paragraph (1) are not achieved, dispute resolution can be pursued through arbitration or alternative dispute resolution methods in accordance with the regulations.
3. If the dispute resolution as referred to in Paragraph (2) is not achieved, the dispute resolution can be pursued through the appropriate court according to its jurisdiction. As for alternative dispute resolution, it is carried out through negotiation, mediation, conciliation, expert opinions, and other methods required by the parties in accordance with the prevailing laws and regulations. The pursuit of dispute resolution in sports performance through both judicial institutions and sports arbitration institutions demonstrates that the mechanism for resolving sports performance disputes is not effective, lacks legal certainty, and requires prolonged processes. The disputes that are the focus of resolution by the independent arbitration body to be established by the government, in a legal sense, encompass all civil disputes within the scope of nurturing and developing amateur and professional athletes. Therefore, in the context of qualifying disputes as Administrative State disputes according to Article 1 Number 10 of Law Number 51 of 2009 concerning Administrative Court, such disputes are not included in the types of disputes to be resolved by the Sports Arbitration Body (Frans Hendra Winarta, 2011). The understanding of disputes within the sports ecosystem includes sports practitioners, athlete developers, athletes, and sports organizations, to be resolved through Sports Arbitration only within the civil scope. This is in line with the provision of Article 58 of Law Number 48 of 2009 concerning Judicial Power, which fundamentally states that civil dispute resolution efforts can be conducted outside of the judiciary through arbitration.
4. Sports Performance Dispute Institution in the Perspective of Legal Certainty

In the world of sports, Arbitration is recognized as a common mechanism for resolving issues and disputes involving athletes, known as the Court of Arbitration for Sport (CAS). With the enactment of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (hereinafter referred to as the Arbitration Law), the provisions regarding Arbitration previously stipulated in Articles 615 to 651 Rv, Article 377 HIR, and Article 705 Rbg are no longer applicable. The Arbitration law has aimed to accommodate all aspects of Arbitration, both in terms of law and substance, with comprehensive scope. The lack of clarity in the rules concerning the procedures or requirements for establishing new arbitration institutions, which should be included in the Arbitration law, has led to the easy establishment of new arbitration bodies. Some of them even have different names but handle the same disputes. In Indonesia, there are two arbitration institutions that handle sports disputes: BAORI, established through KONI25, and BAKI, officially formed by KOI in accordance with KOI's 2012 General Assembly Meeting Number Kep.08/RA-KOI/I/2012 for Olympic event branches. BAORI is an independent institution established by KONI to settle sports-related disputes in the field of performance sports. It was founded in 2006 based on Decree Number 187 of 2006 Concerning the Establishment of BAORI, and in accordance with the Chairman of BAORI Regulation Number 1 of 2017 Concerning the Procedural Law of BAORI. To be qualified as a BAORI arbiter, individuals must meet the following criteria: 1. Capable of performing legal acts (at least 30 years old); 2. Possess a minimum law degree (S1) and equivalent knowledge in other disciplines; 3. Have actively participated for a minimum of 5 years in Indonesian sports organizations or sports branches; 4. Hold certification/licenses as an arbiter and mediator issued by a competent and recognized institution by BAORI; 5. Appointed and designated by the Chairman of BAORI. Therefore, individuals who can become BAORI arbitrators include athletes, former athletes, coaches, and any other parties who meet the above qualifications. Furthermore, Article 42 Paragraph (8) of the KONI Statute states that BAORI decisions are final and binding for disputing parties within the legal jurisdiction of the Republic of Indonesia. The Dualism of Sports Dispute Resolution Institutions (BAKI and BAORI) can impact the quality of decisions made. Currently, there are already alternative sports dispute resolution bodies: the Indonesian Sports Arbitration Board (BAKI) and the Indonesian Sports Arbitration Board (BAORI). Dispute resolution through arbitration is outlined

in Law Number 3 of 2005 concerning the National Sports System. Article 88 Paragraph 1 of Law 3/2005 states that sports dispute resolution is sought through consultation and consensus conducted by the parent organization of sports branches.

The presence of an independent sports judicial institution is considered crucial in realizing a clean and professional National Sports System. This ensures legal certainty in disputes within it. To achieve this goal, the sports judicial institution must be free from any attempts of external intervention in deciding a dispute within the sports world. The Indonesian Sports Arbitration Board (BAORI) needs to be strengthened, given the numerous legal disputes within the sports community. Strengthening BAORI's existence can be achieved by preserving the institution's independence. This aligns with the mandate of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. The presence of BAORI also complies with the logic of Sports Law, which calls for a dispute resolution institution for the sports community. Discussing the role of BAORI is considered important due to the many legal cases affecting the Indonesian sports community. The enactment of Law No. 11 of 2022 restores Law No. 3 of 2005, which fundamentally aimed to enhance the system, capacity, and quality of Indonesian sports. A dispute resolution institution is highly necessary to maintain the stability and dynamism of the sports field. When administrative, financial, or athlete-related issues arise, they can be addressed through this institution. In cases involving criminal elements, further action is taken after the internal process is completed and a final legal determination is made. This is because sports are no longer just a hobby; they have transformed into a profession. Disputes are resolved through Article 21 Number 2 Clause 21, which pertains to the Indonesian Sports Arbitration Board (referred to as BAKI).

According to Article 1 Number 1 of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (hereinafter referred to as the Arbitration and Alternative Dispute Resolution Law), arbitration refers to a method of settling a civil dispute outside of the general judiciary system based on a written agreement made by the disputing parties. In the resolution of disputes, BAKI (Indonesian Arbitration Board) acts as an Arbitration institution, as mentioned in Article 1 Number 8 of the Arbitration and Alternative Dispute Resolution Law, which defines an arbitration institution as a body chosen by the disputing parties to render a decision regarding a specific dispute. This institution can also provide binding opinions concerning a specific legal relationship in cases where no dispute has yet arisen. The Indonesian Olympic Committee (KOI) established the Indonesian Sports Arbitration Board (BAKI), which has the primary task of receiving, examining, and rendering arbitration decisions in sports-related disputes. BAKI is responsible for providing opinions and mediating when conflicting parties are unable to reach a consensus in sports disputes. With the formation of BAKI, Indonesia now has two sports arbitration bodies. Previously, the Indonesian National Sports Committee (KONI) had a specialized arbitration body for resolving sports disputes, known as the Indonesian Sports Arbitration Board (BAORI). There are fundamental differences between BAKI and BAORI.

Ganie explains that BAKI (Indonesian Arbitration Board) is an extension of CAS (Court of Arbitration for Sport), an international arbitration institution established by the International Olympic Committee to settle sports-related disputes. So, the range of disputes that BAKI can handle is not limited to national disputes, but also extends to international ones. The mechanism for resolving sports disputes at BAKI is regulated through BAKI's procedural law, which includes Mediation Rules and Administrative Regulations, while the mechanism for resolving sports disputes at BAORI (Indonesian Sports Arbitration Board) is governed by the Indonesian Sports Arbitration Board Regulation No. 09/RA/2020 concerning the Procedural Law of the Indonesian Sports Arbitration Board (BAORI). The presence of BAKI is claimed by some BAKI officials not to overlap with the existence of BAORI. The decision to choose between BAKI and BAORI lies entirely in the hands of the disputing parties. Therefore, the author's assumption that the resolution of performance sports disputes can be carried out in either of the two arbitration institutions becomes a separate claim in providing a final decision that is perceived as binding and final in nature based on the law. However, in reality, conflicts and dualism in leadership, mutual lawsuits, and claims of legitimacy based on applicable regulations often occur. Interference from politics and the difficulty in determining and/or appealing unsatisfactory decisions from previous arbitration bodies to the appellate institution are also common issues. According to the author, this results in an overlapping of authority in dispute resolution, as it's not unlikely that these two institutions may contradict each other in making dispute-related decisions, ultimately leading to uncertainty in the resolution of such disputes. This is evidenced by the takeover of the resolution of the dualism of management in the Indonesian table tennis federation.

Self-arbitration is a method of examining, deciding, and settling civil disputes outside of the general judiciary system, based on a written arbitration agreement between the disputing parties. Despite the advantages of BAKI's scope in resolving such disputes extending to international dispute resolution, as BAKI is an extension of CAS (Court of Arbitration for Sport), an international arbitration institution established by the International Olympic Committee to settle sports-related disputes, these two institutions create a duality of performance sports bodies that are intended to bring justice to the disputing parties. The presence of BAORI alongside BAKI in Indonesia is not ideal, because although theoretically, the jurisdiction of BAKI should not overlap with the jurisdiction of BAORI since the decision to choose between BAKI or BAORI lies entirely in the hands of the disputing parties. The existence of BAKI offers a new alternative in sports dispute resolution as it grants freedom to the disputing parties. Nevertheless, this duality of arbitration bodies somewhat disrupts the effectiveness of dispute resolution. Especially if the parties have differing opinions on which arbitration body has the right to make decisions, or if the views/decisions of these two arbitration bodies differ. For instance, if a party is dissatisfied with the decision made by BAORI, seeking the next level of appeal would be challenging in determining the appellate body, unlike BAKI which can accommodate the appellant to directly address CAS.

According to the author, there is a need for a reconstruction of existing institutions and their roles and responsibilities to achieve a separation of powers in resolving performance sports disputes. This would enable accommodating the resolution of disputes that occur within various sports branches in Indonesia. The author assumes that it would be more effective and provide legal certainty if there is only one arbitration body specifically dedicated to handling sports disputes in Indonesia, with defined roles and authority. Based on Article 102, Paragraph 6 of Law Number 11 of 2022 concerning Sports, both BAORI and BAKI should merge into a single independent sports arbitration body that governs everything, including bylaws, funding sources, institutional structure, procedural rules, recruitment processes for human resources within the sports arbitration body, and other aspects. This would establish the sports arbitration body as an independent, effective institution for resolving performance sports disputes in Indonesia, ensuring justice and legal certainty.

5. Analysis of the practice of resolving performance sports conflicts:

According to the author's assumption, the current practice of resolving performance sports disputes is not yet aligned with Article 102 of Law Number 11 of 2022 concerning Sports, which states that the resolution of sports disputes should be attempted through consensus and deliberation by the parent sports branch organization. If consensus and deliberation are not achieved, the disputing parties create a written agreement regarding the chosen dispute resolution method. Dispute resolution is conducted through mediation, conciliation, and arbitration. In the case of mediation and conciliation, the disputing parties may seek assistance from the central government and/or local government to facilitate the mediation process. Dispute resolution through arbitration is carried out by an independent sports arbitration body, and its decision is final and binding, based on the Olympic Charter. Based on these provisions, the resolution of performance sports disputes in Indonesia is conducted outside the court. The practice of resolving performance sports disputes through the court has led to one party completely winning and the other losing, resulting in division and the breakdown of the sports framework and social morals. This contradicts the core values of sports, which emphasize peace, uphold sportsmanship, and foster unity and solidarity.

IV. CONCLUSION

Sports are a strategic asset for fostering national integration and strengthening social capital because their inherent nature is highly democratic, emphasizing brotherhood even amidst intense competition on the field. The fundamental values that often save a nation from division problems are consensus and deliberation, and issues within sports should ideally be resolved through consensus and deliberation in accordance with true wisdom. Essentially, the resolution of civil disputes is conducted peacefully by seeking an agreement between the disputing parties. Since disputes arise from conflicting personal interests, resolving them greatly depends on the initiatives of the parties involved. The resolution of civil disputes can be carried out either conventionally through courts (litigation) or by utilizing alternative dispute resolution methods outside the court. Dispute resolution through the court is subject to the provisions of civil procedure law, such as HIR (Herzienne Indonesisch Reglement) for the Java and Madura regions, RBg (Rechtsreglement

Buitengewesten), and other regulations governing civil procedures. The court serves as a means to uphold the law, a place of legal protection, and a platform to seek justice for citizens entangled in disputes. The practice of resolving performance sports disputes currently does not fully align with Article 102 of Law Number 11 of 2022 concerning Sports, which states that the resolution of sports disputes is attempted through consensus and deliberation by the parent sports branch organization. If consensus and deliberation are not achieved, the disputing parties create a written agreement regarding the chosen dispute resolution method. Dispute resolution is conducted through mediation, conciliation, and arbitration. In the case of mediation and conciliation, the disputing parties may seek assistance from the central government and/or local government to facilitate the mediation process (Kukuh Prabowo Putra Dipayana and I Made Dedy Priyanto, 2022). Dispute resolution through arbitration is carried out by an independent sports arbitration body, and its decision is final and binding. Arbitration has been clearly designated as the primary method for resolving sports disputes. The fact that the resolution of performance sports disputes pursued through both judicial and sports arbitration institutions shows that the mechanism for resolving performance sports disputes is not effective, efficient, fair, or legally certain, and requires a prolonged dispute resolution process.

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