

## Legal Protection Of Underage E-Sports Players Related To Employment Agreements With E-Sports Companies

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### Abstract

*The purpose of this study was to be able to determine and analyze the legal protection arrangements for electronic sports players (E-Sports) that fall into the category of minors as it is known that children who are in their teens can not do much, therefore the employment agreement requires written permission of the parents. The author uses normative research methods, the nature of analytical prescriptive research. The results and discussion in this study concluded that legal protection for e-sports players with e-sports companies in principle work agreements have been preventively regulated in the law on sports, the Civil Code including special rules PBESI Regulation No. 034/PB-ESI/B/VI / 2021 as a form of regulation of E-sports legal protection in Indonesia. It's just that in terms of repressive legal protection through PBESI Regulation No. 034/PB-ESI/B/VI / 2021 regarding dispute resolution still contains weaknesses, as it is known that children before working 'must obtain written permission from their parents and a work agreement is made with their parents', while the regulation does not explain the involvement of parents in dispute resolution. Thus it is necessary to make changes to Article 43 paragraph (1) PBESI Regulation No. 034/PB-ESI/B/VI / 2021 on the implementation of E-sports activities in Indonesia.*

**Keywords:** *Legal Protection; E-Sports; Children; Agreements.*

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## INTRODUCTION

The development in the digital age has brought many changes in human life. In this digital era, technology-based sports or known as e-sports are increasingly popular among the public. E-sports is developing into an entertainment industry that is increasingly popular with the public. Almost every country in various parts of the world, including Indonesia, holds competitive sports events based on this video game. Nowadays e-sports is not just for entertainment but has become a huge industry. E-sports stands for E-Sport which is known as a sport that uses games as its field. (Hamari and Sjoblom, 2017). E-sports is one of the sports that are included in the achievement sports category. Article 1 Paragraph (1) defines sports, namely: "sports are all activities that involve the mind, body, and soul in an integrated and systematic way to encourage, foster, and develop physical, spiritual, social, and cultural potential."

The most fundamental and significant difference between e-sports and other conventional sports is that conventional sports rely heavily and rely on their body agility and are inversely proportional to e-sports Sports that prioritize the ability to set strategies. The development of e-sports in Indonesia also still has pros and cons among the public, especially among parents whose children eventually have an addiction to online games. Addiction to online games is one of the impacts or side effects that arise from the development of e-sports and if not given special attention, the effects of online game addiction can have a serious impact.

On the other hand, the rapid development of e-sports in Indonesia has finally received the attention of the government which officially provides support to the sport through the inauguration of the only parent e-sports organization in Indonesia, the Executive Board of E-sports throughout Indonesia or which will be abbreviated as PBESI. The organization was officially inaugurated on January 18, 2020, and will have a four-year term starting from 2020 to

2024. The inauguration of PBESI is a big step in the history of the development of e-sports in Indonesia. PBESI is believed to be able to provide legal certainty for the running of e-sports in Indonesia. (Novrialdy, 2019).

Not long after the inauguration of PBESI as the parent of e-sports in Indonesia, in the same year, precisely in August, e-sports was officially recognized as an achievement sport by KONI. Based on Law Number 11 of 2022 concerning sports, the achievement sports branch is regulated in Article 12 which reads: “achievement sports are sports that Foster and develop sportsmen in a planned, systematic, integrated, tiered, and sustainable manner through competition to achieve achievements with the support of sports science and technology”. So based on the article, e-sports has been officially considered as part of a new sports field in Indonesia. With the view of e-sports as a field of sports and the availability of PBESI as the parent container of sports organizations, PBESI has the right to issue regulations related to the running of e-sports sports in Indonesia. Where the authority is poured into PBESI Regulation No. 034/PB - ESI/B/VI/2021.

However, in addition to the good development of e-sports, in fact, there is still a problem that the number of e-sports workers who are minors, if referring to according to the child labor law is: “every person under 18 years of age”. Referring to Article 69 paragraph (2) of the labor law that: “employers who employ children on light work as referred to in Paragraph (1) must meet the requirements one of which is written permission from a parent or guardian”. The written permission is required as a form of parental or guardian assistance to the child. Underage players certainly do not understand the basic principles of a working relationship with an e-sports company, and the player also does not understand thoroughly about the consequences that will be accepted in the content of the agreement that has been made.

The e-sports team will always ask permission from parents or guardians if the player is underage. However, the permission is not in writing but through a conversation from the e-sports management with a parent or guardian. In addition, the e-sports party also requested permission from the school concerned with the player. Such permission is in the form of not following the learning time until the time specified in the agreement. Players who are underage certainly have differences in implementing labor agreements compared to players who are adults. So based on this, this study needs to be done to analyze the legal protection of underage e-sports players who enter into employment agreements with e-sports companies.

## **RESEARCH METHODS**

In a conceptual/doctrinal framework, normative legal research is referred to as rule/dogmatic research, and is characteristically an inventory of positive law, also containing prescriptive elements. In line with this, then to thoroughly examine the issues in this study, researchers will describe the results that are relevant to the primary legal materials sourced from legislation and secondary legal materials sourced from literature literature. While the research approach used is the approach of legislation and conceptual approach. (Mamudji & Soekanto, 2009).

## **RESULT AND DISCUSSION**

### **Employment Relationship, Agreement, Employment Agreement**

Legal relations can be explained as links between a number of parties that result in the emergence of rights and obligations between them under an agreement. Legal relations have two

different aspects, namely rights (bevoegdheid) and obligations (plicht). (Santoso, 2013). The law is used as a foundation or source that regulates the granting of obligations to other parties that will eventually result in rights after the implementation of the corresponding obligations that have been agreed upon by the relevant parties. In addition, the law also plays a role in avoiding misunderstandings that could result in lawsuits against the parties involved, so the law also serves as a regulator in this context (R. Soesroso, 2011). Legal relations have three elements, namely there are parties whose rights or obligations are related, there are objects that are formed in reference to rights and obligations, and there are links between rights holders and executors of obligations.

The employment agreement can be said to be a fundamental legal institution in labor law. An employment agreement is one of the most essential things in labor law because an employment agreement has given birth to a legal relationship, namely the employment relationship between workers/workers and employers. In the employment agreement, the rights and obligations of each party will be established. Workers / laborers and employers will be bound in the employment relationship to carry out their respective rights and obligations. (Budi Santoso & Ratih Dhevina, 2012).

Article 1313 BW reveals that an agreement is an act by which one or more individuals include themselves in obligations to another individual. A number of Jurists also have their own thoughts regarding the meaning of the agreement:

- a. R. An agreement is an event in which one individual binds himself to another, or in which two individuals pledge to perform a certain act. (R Subekti, 2003).
- b. R. Wirjono Prodjodikoro, stated that an agreement is a legal relationship related to property between two parties, where one individual promises or is assumed to have promised to carry out or not carry out a certain action, while the other party has the right to demand the realization of the promise. (Prodjodikoro, 2000).
- c. K.R.M.T Tirtodiningrat, States a legal act that is carried out based on an agreement between two or more individuals with the aim of generating legal consequences permitted by the rules of law.
- d. Yahya Harahap said that an agreement is a legal relationship involving property between two or more individuals, which allocates rights to one party and obligations to the other in relation to certain achievements (Harahap, 1986). Legitimate terms of the agreement itself is contained in Article 1320 BW, namely:
  1. There Is An Agreement In this case,  
the agreement in question is the alignment of the statement of Will between the parties. The parties involved should have the freedom to enter into an agreement. Therefore, article 1321 BW confirms that the agreement in question does not involve elements of negligence, coercion, and fraud against the parties to the agreement.
  2. Proficiency  
The subjects referred to in the ability to form an agreement are the parties to the agreement. Article 1329 BW states that every individual is competent to enter into an agreement, except when the law decides not competent. Regarding persons who are said to be incompetent, contained in Article 1330 BW, namely children, people under guardianship, and married women in terms specified by law.
  3. A Certain Thing  
Article 1333 BW states that the agreement must include an object that can be at least minimally identified by type. An agreement must have a specific object. This means that an agreement must contain certain things, namely there are things that are promised in the form of rights and obligations.

4. There is a good reason Referring to Article 1335 jo 1337 BW a thing is said to be invalid if it is not in line with the law and the public interest.

The labor agreement listed in Chapter IX of the Labor Law Article 1 Number 14 stated that the labor agreement is an agreement between workers and employers containing provisions related to work, rights, and responsibilities of the parties. An employment agreement is an agreement that is designed on an agreement between the employer and the worker. The labor agreement is what gave birth to a legal relationship between workers and employers called Labor Relations. The provisions concerning the employment agreement are also attached to Article 1601 BW. The article defines an employment agreement is an agreement in which a worker, referred to as a laborer, agrees to perform work under the supervision of another party, referred to as an employer, for a certain period of time in exchange for wages. (Supreme, 2021).

R. Iman Soepomo describes a labor agreement as an agreement between the First party, the worker, agrees to carry out the work in exchange for wages to be handed over by the second party, the employer, who in turn agrees to hire the worker and pay wages as agreed. (Djumadi, 2006). Based on the explanation, it can be concluded that the agreement made by the parties must comply with the provisions that have been determined. This is because the agreement in the contract the agreement is binding on the parties who make it.

### **Legal protection of underage E-Sports players related to employment agreements with E-Sports companies**

In essence, legal protection is the recognition by the state of the rights and obligations of its citizens through the creation of a set of positive laws. In Indonesia itself, there is no legislation governing e-sports. However, the world of e-sports is actually the same as sports but using electronic media. Thus, the regulation of its existence is in the set of laws on sports even though it cannot be fully enforced.

One of the legal umbrella of sports is regulated in the sports law, this law only regulates things that are general in nature not specifically. While the types of sports are diverse and in each sport has its own rules. The explanation of the sports law expressly states that: "so far, the field of Sports has only been regulated by laws and regulations under laws that are partial or have not regulated all aspects of national sports as a whole and have not reflected an orderly legal order in the field of sports".

The form of legal protection in the form of legal rules can be given to e-sports players in two ways, namely preventive and repressive. Preventive methods can be found on signs or rules that prevent violations of the law. While repressive means that are solving legal problems in the form of sanctions in the form of fines, prison sentences, or other additional penalties (Satjipto Rahardjo, 2000). In a preventive effort, the law may be present in the form of written regulations from the authorities in the form of legislation or the making of agreements/contracts by the parties. While repressive efforts can be taken in various ways such as law enforcement by law enforcement officers in the field of criminal law or through dispute resolution agencies such as courts.

Broadly speaking, legal protection is the main form of protection because it is based on the idea that the law as a means that can accommodate the interests and rights of consumers comprehensively. In addition, the law has the force of force officially recognized by the state, so it can be implemented permanently. In contrast to protection through other institutions such as economic or political protection, for example, which is temporary or temporary (Sasongko, 2007). Until now there has not been a single law that regulates the existence of the world of e-sports in Indonesia. However, there are several organizations that overshadow the world of e-sports, namely PBESI.

Protection in the form of legal rules for e-sports players the main one is related to labor agreements related to wage issues. The law has determined that workers who in this case are e-

sports players cannot get wages below the minimum value set by the region (Regency/City/Province), e-sports players also have the right to leave/ rest, the implementation of termination of employment is also very limited so that e-sports teams do not act arbitrarily. The most important and fundamental legal protection is contained in the employment agreement. This employment agreement will be the legal umbrella against the legal relationship between the player and the e-sports team as an employer (entrepreneur).

PBESI Regulation No. 034/PB-ESI/B/VI / 2021 as a form of regulation of E-sports legal protection in Indonesia. The regulation is contained in the regulation document of the Indonesian e-sports Executive Board Number: 034/PB-ESI/B/VI/2021 concerning the implementation of E-sports activities in Indonesia which consists of 46 articles. In 2021, the regulation for the e-sports ecosystem in Indonesia from PBESI has been officially and legally implemented. PBESI regulation in Article 8 paragraph (6) which states: “every Indonesian professional E-sports team must be subject to the laws and regulations in force in Indonesia” (Maulidea, C. & Mahyani, A, 2022).

In addition to the work agreement, there is also a collective work Agreement and company regulations that are alternative in nature can be used in determining the rights and obligations of the parties (Arrizal, 2020). Legal protection is not only from the side of e-sports players, e-sports teams also receive legal protection, for example, the principle of no work no pay as Article 93 of the Labor Law which means that workers will not get wages/ salaries if the person concerned does not do the job. Of course, there are restrictions and provisions that are absent, leave, or rest. In general, the law has accommodated everything. Despite this, many labor violations and disputes are found, which are called labor disputes. If this happens, the parties can resolve in the Commercial Court or use a dispute resolution institution such as bipartite or tripartite (Arrizal, 2020).

The employment relationship for e-sports players must meet the elements contained in Article 1 Paragraph (15) of Law Number 13 of 2003 concerning employment. Article 1 Number 1 of Law No. 11 of 2022 on sports that regulate e-sports as a branch of achievement sports. In the employment contract against an e-sports player also involves another party, namely the e-sports team, the e-sports manager. (Guttman, 2016). The employment contract binds the e-sports player to the team or e-sports club that manages the e-sports player. The employment contract is drawn up in the form of a written contract. The employment contract regulates the legal relationship between the e-sports player and the e-sports team or club. The law has determined that workers who in this case are e-sports players cannot get wages below the minimum value set by the region (Regency/City/Province), e-sports players also have the right to leave/ rest, the implementation of termination of employment is also very limited so that e-sports teams do not act arbitrarily.

All agreements, including labor agreements, must also apply the principle of good faith in their implementation. As in the content of Article 1338 paragraph (3) of the Civil Code which states that the agreement must be executed in good faith. Good faith according to Article 1338 paragraph (3) of the Civil Code is one of several very important factors of labor contract law, its function is to give authority to judges in court to oversee the implementation of a contract agreement so that nothing violates propriety and Justice. So that the judge in the process of hearing a case, is authorized to impose a penalty if the contract of the agreement is contrary to the feeling of Justice. Therefore, even though the contract of employment agreement between the player and the company has regulated or has not regulated poaching, the player involved in poaching if it is at the stage of the trial will remain in a weak position because his actions can be considered a violation of good faith (Maulidea, C. & Mahyani, A, 2022).

In Article 102 mandates that the settlement of Sports Disputes is first resolved through deliberation and consensus, then if an agreement is not reached then it is resolved through

arbitration or Alternative Dispute Resolution in accordance with legislation then if dispute resolution through arbitration is not reached it can continue through the courts in accordance with its jurisdiction. This is different from what is regulated in the Industrial Relations Dispute Resolution Act, where not all disputes can be resolved through arbitration. In Law No. 11 of 2022 on sports there are stages to resolve disputes, starting from deliberation and consensus and then arbitration and court as a last resort. (Noorsyaidah. & Hafizatzahra, 2022).

However, if viewed from a legal point of view, each party that is bound by a work agreement between players and e-sports companies should be players and teams subject to applicable laws in Indonesia, but there are still weaknesses in PBESI Regulation No. 034/PB-ESI/B/VI / 2021 concerning the implementation of E-sports activities in Indonesia, namely in Article 43:

**Article 43**

- (1) professional athletes, Esports teams, and players including amateur players, and team representatives may apply to PBESI for settlement of out-of-match infringement disputes to resolve disputes that occur between registered parties.
- (2) The application for Dispute Resolution for violations outside the match as meant in Paragraph (1) will be studied and responded to by PBESI within 14 (fourteen) working days from the receipt of the application for Dispute Resolution.
- (3) the application for Dispute Resolution of violations outside the match submitted by the registered party as meant in Paragraph (1) may be accepted or rejected by PBESI.
- (4) in the event that PBESI receives a dispute resolution request for violations outside the match, then within a period of 14 (fourteen) working days from the time the Dispute Resolution application is declared accepted by PBESI, PBESI will invite all parties to the dispute to attend the mediation meeting.
- (5) if after the lapse of the period as specified in Paragraph (2) PBESI does not respond to the application for Dispute Resolution of violations outside the match, the application for Dispute Resolution of violations outside the match is considered rejected by PBESI.

The fundamental issue of the above provisions is the settlement of disputes for e-sports players who are underage, considering that the basis of children who are in their teens cannot do much. (Maidin, 2010). When looking at the provisions of Article 69 paragraph (1) of Law No. 13 of 2003 on employment, as follows:

(1) for children aged between 13 years and 15 years to do light work as long as it does not interfere with physical, mental and social development and health. To hire a child for this light work there must be:

- a. written permission from a parent or guardian;
- b. employment agreement between employers and parents or guardians;
- c. maximum working time 3 (three) hours;
- d. conducted during the day and does not interfere with school hours;
- e. Occupational Safety and health;
- f. the existence of a clear working relationship; and
- g. receiving wages in accordance with applicable regulations

Interestingly weaknesses in regulation PBESI No. 034/PB-ESI/B/VI / 2021 concerning the implementation of E-sports activities in Indonesia is the absence of parental involvement in dispute resolution, as known to children before working, ‘must obtain written permission of the parents and a work agreement is made with the parents’ in accordance with the law on Labor.

Therefore, to maximize the dispute resolution process as it should, the author would like to offer changes to Article 43 of PBESI Regulation No. 034/PB-ESI/B/VI / 2021 concerning the implementation of E-sports activities in Indonesia, namely:

**Article 43**

- (1) professional athletes, Esports teams, and players including amateur players, team representatives, as well as special underage players, through the assistance of parents/guardians can apply for Dispute Resolution violations outside the match to PBESI to resolve disputes that occur between the parties listed.
- (2) The application for Dispute Resolution for violations outside the match as meant in Paragraph (1) will be studied and responded to by PBESI within 14 (fourteen) working days from the receipt of the application for Dispute Resolution.
- (3) the application for Dispute Resolution of violations outside the match submitted by the registered party as meant in Paragraph (1) may be accepted or rejected by PBESI.
- (4) in the event that PBESI receives a dispute resolution request for violations outside the match, then within a period of 14 (fourteen) working days from the time the Dispute Resolution application is declared accepted by PBESI, PBESI will invite all parties to the dispute to attend the mediation meeting.
- (5) if after the lapse of the period as specified in Paragraph (2) PBESI does not respond to the application for Dispute Resolution of violations outside the match, the application for Dispute Resolution of violations outside the match is considered rejected by PBESI.

Of course, with the above changes, everything is directed to provide maximum legal protection regarding disputes over the implementation of labor agreements carried out by minor athletes and e-sports companies. It is also intended that all dispute resolution applications submitted by e-sports players can be accepted by PBESI, which means that the legal protection provided by PBESI becomes clear and consistent with the subject of the dispute

## CONCLUSION

The form of legal protection is preventive and repressive. Preventive law can be found on signs or rules that prevent violations of the law. While repressive laws that solve legal problems in the form of sanctions in the form of fines, prison sentences, or other additional penalties. As for legal protection for e-sports players with e-sports companies in principle work agreements have been preventively regulated in the law on sports, the Civil Code includes special rules PBESI Regulation No. 034/PB-ESI/B/VI / 2021 as a form of regulation of E-sports legal protection in Indonesia. It's just that in terms of repressive legal protection through PBESI Regulation No. 034/PB-ESI/B/VI / 2021 related to dispute resolution still contains weaknesses, as it is known that children before working' must obtain written permission from their parents and a work agreement is made with their parents', while the regulation does not explain the involvement of parents in dispute resolution. Thus it is necessary to make changes to Article 43 paragraph (1) PBESI Regulation No. 034/PB-ESI/B/VI / 2021 on the implementation of E-sports activities in Indonesia

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