

# CRIMINAL OFFENSE PERSECUTION BY FOOTBALL PLAYERS IN THE PSSI REGIONAL COMPETITION: JURIDICAL REVIEW

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**CRIMINAL OFFENSE PERSECUTION BY FOOTBALL PLAYERS  
IN THE PSSI REGIONAL COMPETITION: JURIDICAL REVIEW**

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**ABSTRACT**

**Background.** Football is the most popular sport in the world. Football cannot be seen as just a sporting game that relies on physicality alone, but in the game of football emotions, adrenaline, passion, pride, and dedication are in it. Because of this, in a football match, physical contact cannot be avoided, ranging from light, moderate to heavy physical contact. So that football players have a tendency to commit violence against the body, which is prohibited in national law contained in Article 351 of the Criminal Code concerning persecution. The purpose of this study was to explain the criminal offense of persecution by football players in the PSSI regional competition.

**Research Method.** This research was normative legal research with a juridical review approach, using legal rules, books and journals related to the research problem.

**Findings.** Football has its law, namely the FIFA legal system which is transnational. In the FIFA legal system is divided into two namely Lex Sportiva & Lex Ludica. FIFA as an international football organization prohibits all forms of intervention in the realm of football.

**Conclusion.** The state in enforcing state law must of course be careful not to be interpreted as a form of intervention by the state and violate the FIFA legal system.

**Keywords:** Football, Lex Ludica, Lex Sportiva, Persecution.

**BACKGROUND**

Football is the most popular sport in the world. This sport is very popular with most of the world's population. All circles ranging from children, and teenagers, to adults, even without distinguishing between men and women, are very fond of this sport. Even if some do not like it or can play it, at least they know about the existence of this sport. This indicates that sports have now permeated the lives of the wider community.

Nike Hornby, in the book *Fever Pitch*, is one of the pieces of literature that describes how we fall in love with football just like a man falls in love with a woman without caring about the various possibilities of heartbreak waiting at the end of the road. That's how football bewitched the world. Almost everyone is interested in watching it so that the world appears to be a single community. Most football lovers have heard a legendary quote from Bill Shankly, the famous manager of Liverpool Football Club from 1959 - 1974, namely: "Some people believe football is a matter of life and death, I am very disappointed with that attitude. I can assure you it is much, much more important than that. [1]"

There is a bit of hyperbolic emphasis in Shankly's words. However, it's not entirely wrong. For some people, football has indeed become something bigger than a matter of life and death. Eric Cantona, the legendary player of Manchester United Football Club during the 90s, also made a quote about his view of football that is more than everything in life, namely:

<sup>6</sup> "You can change your wife, change your politics, change your religion. But never, never can you change your favorite football team. From the quotes, it can be stated that football is not just a sporting game. But more than that, football is part of the world's life.

No one can be sure from where or from which nation first invented this game. Every nation argues for its claim to this sport. For example, the Ancient Indians in the Americas. For a long time, they have had the habit of playing a game that involves many people. In the game, they use objects in the form of objects made of rubber gum to be kicked or kicked between one another. Meanwhile, the birth and development of football in Europe initially came from Roman soldiers who filled their spare time when not fighting. The soldiers played to scramble and kick each other's skulls, which were usually enemy skulls.[2]

In further development, football is increasingly showing its positive side in building mental and physical society. Football is also a place to prove identity. The formation of modern provisions of the game of football began in the 19th century in England. At that time, educated young people in public schools and universities, such as Cambridge University, London, introduced the game of football using the format and rules of the game we know today. Departing from this, football and the rules in it continued to develop and modern football was born along with the rules known and used until now, namely the law of The Game.

With the rapid development of football in the 20th century, meetings and negotiations began with several countries to form a football body. The body was named Federation International de Football Associations or FIFA. Founded on May 21, 1904, in Paris, France. The establishment of FIFA as an international football body shows that football is part of the world's identity.[3]

Not only football is developing but the culture of the game of football is also developing along with the industrialization of football.[4] Starting the culture of the beautiful Dutch-style Total football game in the mid-70s was further developed by Pep Guardiola into Spanish-style Tiki Taka, then in Italy which is famous for the Cattenacio style of play which is the anti-thesis of the Total football game.[5] In Germany, it is famous for the Gegenpressing style of play introduced by Jurgen Klopp, and the game of Total football. relying on the hard physicality of the English with the famous Kick and Rush style. In the diverse culture of the game of football, it is certainly inevitable to play hard physical games on the field.

In the 1990 world cup, referees issued 160 yellow cards and 14 red cards. The tendency of teams to play hard and rough not only takes away from the beautiful game but also leaves several players injured. Bryan Robson, an England national team player in the 1990 world cup felt the consequences of hard and rough play in football, he was forced to return home first to Manchester due to severe injuries. Because the game of football cannot be seen as just a sports game that relies on physicality alone. But, in the game of football emotion, adrenaline, passion, prestige, and dedication are in it. Football is a sport that relies on physicality and cannot be avoided from physical contact ranging from light, moderate to heavy physical contact. Seeing that, to maintain the safety of players and all those directly involved on the field in a football match, rules are made that limit the actions of players on the field to stay within the corridor of the fair play game launched by FIFA. Everything is contained in the rules made by FIFA. In enforcing the rules - the rules that exist in the game of football, at the time of a match are purely the prerogative of a referee as a court and enforcer of the law of the game. Even football itself has its own judicial body in it, namely the disciplinary committee, ethics committee, and appeals committee to enforce the rules in the Law Of The Game, FIFA Disciplinary Code, and other rules made by FIFA.[6, 7]

But what happens is just the opposite, the state intervenes in law enforcement in the arena of football matches. And FIFA as an international football organization is the most anti-state intervention organization. This is evidenced by cases of punishment against footballers who commit criminal acts of persecution on the football field.[8] Two cases of criminal persecution that occurred in Indonesia where state law entered into a football match arena. The first case occurred in 2009 when two footballers, Nova Zaenal and Bernard Momadou were detained by Surakarta Police. Nova Zaenal, a player of Persis Solo, and Bernard Mamadou, a foreign player of Gresik United fought fiercely on the field during a match. [9]The case eventually went to court. Nova Zaenal and Bernard Mamadou were charged with violating Article 351 paragraph (1) jo. Article 352 of the Criminal Code on persecution and after undergoing a series of trials for almost a year, both were sentenced to three months in prison with six-month probation. The second was the case of beating the referee three PSAP Sigli players in the match between PSAP Sigli vs Aceh United in League Competition 3. This started when Aceh United players committed a foul. Did not accept that the referee did not give a yellow card, Causar protested, during the argument, Causar hit the referee Aidil. Not accepting, Aidil gave a yellow card to Causar. He then hit the referee again with the help of defendant two and defendant three. This case was finally forwarded to court. [10]The three PSAP Sigli players were sentenced to 6 months in prison and one-year probation and declared conditionally free. Based on this, the author is interested in conducting research aimed at explaining the Juridical Review of Criminal Offenses Committed by Football Players in the PSSI Regional Competition in Review of the Criminal Code " .

## RESEARCH METHOD

This type of investigation uses normative investigation (normative law). This term requires information in the form of an explanation and has a different meaning behind the legal material.[11]

The primary legal materials consist of Law No. 3/2005 on the National Sports System and Criminal Law Code, Chapter XX on Persecution.[12, 13] Secondary legal materials that support or support the study of primary legal materials that support the statements contained therein. Secondary legal materials for this investigation include books, articles, journals, and documents that match the research problem. Third legal materials that explain and explain primary and secondary legal materials such as legal encyclopedias and legal encyclopedias.

The method of documenting this research was to obtain data in the form of legal norms, expert opinions about PSSI[14, 15], and laws relevant to the subject matter of the research.

## FINDINGS

### 1. Overview of Persecution

Crime is a term that contains a basic understanding in legal science, as a term formed with awareness in giving certain characteristics to criminal law events. Criminal acts have an abstract understanding of concrete events in the field of criminal law, so criminal acts must be given a scientific meaning and clearly determined to be able to separate them from the terms used daily in community life. [16]

The definition of criminal offense according to experts, namely:

- a. Moeljatno states that a criminal offense is an act prohibited by a rule of law, in which prohibition is accompanied by threats (sanctions) in the form of certain punishment for those who violate the prohibition.

- b. According to Pompe, strawbale feit can theoretically be formulated as a violation of norms (disturbance of legal order) that has been intentionally or unintentionally committed by an offender, where the imposition of punishment against the offender is necessary for the maintenance of legal order and the guarantee of legal interests.
- c. Van Hammel formulated the strawbale feit as an attack or a threat to the rights of others.
- d. According to Simmons, the strawbale feit is an unlawful act that has been committed intentionally or unintentionally by someone who can be held responsible for his actions and by law has been declared a punishable act.
- e. According to E. Utrecht, strawbale feit is a criminal event which is often also called an offense, because the event is a positive handelen or does action or a negative natal en-negative negligence as well as the consequences (conditions caused by the action or negligence).

#### Types of Criminal Offenses

The Criminal Code itself has classified criminal acts or offenses into two major groups, namely in the second and third books, respectively into groups of crimes and offenses.

1. Crimes and offenses
2. Formal offense and material offense.
3. Delik dolus and delik culpa.
4. Delik commissions and Delik omissions.
5. Complaint offense and ordinary offense (not a complaint).

#### Elements of Criminal Offense

The elements of a criminal offense can be distinguished from at least two points of view, namely:

1. Subjective elements are elements that are attached to the perpetrator or related to the perpetrator and include everything that is contained in the heart of the perpetrator. Consists of a) Intentionality or unintentionality (dolus or culpa); b) Intent or voornemen in an attempt or pging as referred to in Article 53 paragraph 1 of the Criminal Code; c) Various intentions or oogmerk as found for example in crimes of theft, fraud, extortion, forgery and others; d) Advance planning or voorbedachte raad as found for example in the crime of murder pursuant to Article 340 of the Criminal Code; e) Feeling of fear or vress as found, among others, in the formulation of criminal offense under Article 308 of the Criminal Code.

2. The objective element is an element that has to do with the circumstances, i.e. in which circumstances the actions of the perpetrator must be carried out. Consists of: a) Unlawfulness or wederrechtelijkheid; b) The quality of the perpetrator, e.g. "the state of being a public servant" in the crime of office under Article 415 of the Criminal Code or "the state of being a manager or commissioner of a limited liability company" in the crime under Article 398 of the Criminal Code; c) Causality, i.e. the relationship between an act as a cause and a fact as an effect.[13]

#### Definition of the Crime of Persecution

In general, crimes against the body are referred to as "persecution" in the Criminal Code. The regulation of crimes against the human body is intended to protect the legal interests of the body from acts in the form of attacks on the body or parts of the body that cause pain or injury, even because such injuries to the body can cause death. Persecution in the large Indonesian dictionary has the meaning of "arbitrary behavior". This definition is in a broad sense, which includes "feelings" or "inner" matters. Regarding persecution in Article 351 of the Criminal Code, R. Soesilo in his book entitled The Criminal Code (KUHP) as well as its complete commentary article by article, said that the law does not provide provisions on what is defined by "persecution". According to jurisprudence, "persecution" means

intentionally causing unpleasant feelings (suffering), pain, or injury. According to paragraph 4 of this article, penganiayaan also includes "intentionally damaging the health of a person". [17]

R. Soesilo in the book also gives examples of what is meant by "bad feeling", "pain", "injury", and "damage to health":

1. "unpleasant feelings" such as pushing people into a river so that they get wet, making people stand in the hot sun, and so on.
2. "pain" such as pinching, swatting, hitting, slapping, and so on.
3. "injury" such as slicing, cutting, stabbing with a knife and so on.
4. "damage to health", for example, if a person is sleeping and sweating, the window of his room is opened, so that the person catches a cold.

Based on the definition of a criminal offense above, the formulation of persecution contains the following elements:

- a. The element of intent.
- b. The element of action.
- c. The element of the effect of the act (intended).
- d. Which result is the sole purpose of the perpetrator.

Crime of Persecution in the Criminal Code

There are several types of persecution that can be categorized based on the consequences obtained by the victim. The types of criminal offense of persecution are:

a. Ordinary Persecution

The crime of ordinary persecution can also be referred to as basic persecution, or in another sense, the qualification in the main persecution in addition to serious persecution and light persecution. In Article 351 of the Criminal Code there are types of ordinary persecution, namely:

1. Ordinary persecution which does not result in serious injury or death and is punishable with imprisonment for a term of two years and eight months or a fine of up to three hundred rupiahs.
2. Persecution resulting in serious injury and is punishable with imprisonment for a maximum of 5 years.
3. Persecution resulting in death and shall be punished by a maximum imprisonment of 7 years.
4. Sale and purchase can be viewed from several aspects, in terms of the law of sale and purchase there are three types, namely valid, invalid, and invalid sale and purchase, in terms of the object (goods) of sale and purchase and in terms of the subject (perpetrator) of sale and purchase.

b. Light Persecution

This is regulated in Article 352 of the Criminal Code, which is written as follows:

Light persecution exists and is punishable by a maximum imprisonment of three months or a maximum fine of three hundred rupiahs if it is not included in the formulation of Articles 353 and 356 and does not cause illness or hindrance to the performance of official or professional work. This punishment may be enhanced by one third for the person who commits the crime against a person who is in his service or subordinate.

c. Aggravated persecution

This type of persecution is regulated in Article 353 of the Criminal Code which states:

1. Persecution with premeditation shall be punished by a maximum imprisonment of four years.
2. If the act results in a serious injury, the offender shall be sentenced to a maximum imprisonment of seven years. If the act results in death, he shall be sentenced to a maximum imprisonment of nine years.
3. If the act results in death, he shall be sentenced to a maximum imprisonment of nine years.

Based on the formulation of Article 353 of the Criminal Code, it can be concluded that premeditated persecution can be seen in the form of three forms of persecution, namely:

1. In Article 353 paragraph (1) is persecution that does not cause serious injury or death. When associated with Article paragraph (1) of the Criminal Code which regulates ordinary persecution, premeditated persecution that does not cause serious injury or death is in the form of ordinary persecution that is planned in advance, so that the persecution in Article 353 paragraph (1) of the Criminal Code is premeditated ordinary persecution.<sup>11</sup>
2. Premeditated persecution that results in serious injury is regulated in Article 353 paragraph (2) of the Criminal Code.<sup>2</sup>
3. Whereas premeditated persecution resulting in death is regulated in Article 353 paragraph (3) of the Criminal Code.

#### d. Serious Persecution

This crime is regulated in Article 354 of the Penal Code, but the crime of serious persecution consists of two types, namely:

1. The crime of ordinary serious persecution that does not result in death is regulated in Article 354 paragraph (1).
2. The crime of serious persecution resulting in death is regulated in Article 354 paragraph (2).<sup>16</sup>

The formulation in the Criminal Code in Article 354 is as follows:

1. Any person who intentionally causes serious injury to another person shall, being guilty of serious persecution, be punished by a maximum imprisonment of eight years.
2. If the act results in death, the offender shall be sentenced to a maximum imprisonment of ten years.

The elements of the crime of serious persecution set out in Article 354 paragraph (1) are:

1. The element of intentionality, which means that the perpetrator commits the crime of persecution with intent and deliberately.
2. The element of action, meaning that in this criminal offense there is an action committed, namely persecution.
3. The element of the body of another person, meaning that in committing the crime of persecution the object of the act is the body of another person who can suffer serious injury.
4. The element of result in the form of serious injury, meaning that the result here is serious injury which is included in the qualification in Article 90 of the Criminal Code.

In Article 90 of the Criminal Code, the qualifications of serious injury are:

1. Falling ill or receiving an injury from which there is no hope of recovery, or from which there is a danger of death.
2. Continuously incapable of performing the duties of office or profession.
3. Has lost one of the five senses.
4. Has a severe disability (verminking).
5. Suffering from paralytic pain.
6. Impaired thinking for more than four weeks.
7. The loss or death of a woman's womb.

#### c. Aggravated Serious Persecution

<sup>12</sup> The crime of aggravated persecution is regulated in Article 355 of the Penal Code, namely:

1. Serious persecution committed with premeditation shall be punished by a maximum imprisonment of twelve years.

2. If the act results in death, the offender shall be sentenced to a maximum imprisonment of fifteen years. In Article 355 of the Penal Code, it can be seen that the crime of aggravated persecution can be divided into two parts, namely:

1. The crime of simple premeditated serious persecution that does not result in serious injury or death is regulated in Article 355 paragraph (1) of the Criminal Code.

2. Meanwhile, the crime of serious persecution resulting in serious injury or death is regulated in Article 355 paragraph (2) of the Criminal Code.

## <sup>6</sup> 2. Federation International de Football Associations (FIFA)

<sup>6</sup> Federation International de Football Associations or FIFA is an international football organization. This international football organization is headquartered in the Swiss city of Zurich. FIFA was founded on May 21, 1904 in Paris, France. The establishment of FIFA also went through a long process, after a meeting of several countries, namely, French representatives (Robert Guerin), Spain, in this case, Real Madrid (Andre Espir), Belgium (Louis Muehlinghaus and Maz Kahn), Switzerland (Victor E Schneiser), and representatives of the Netherlands and Sweden[3, 18].

In the meeting, the first FIFA statutes were also made which contained the presence and role of each member country, football players could not defend two countries and clubs at the same time, recognition of player sanctions by other country federations, and playing matches in accordance with predetermined regulations.

According to FIFA's official website, the statute only came into force on September 1, 1904. At the same time, the German Football Federation said that they agreed and would comply with the statutes.

FIFA is currently led by a FIFA President, Gianni Infantino. FIFA often takes an active role in running and developing the game around the world. As the parent of all football organizations in the world, FIFA has a duty to advance the development of football from time to time. Since it was first established FIFA is a purely sports organization in the football branch and is not related to world politics. Therefore, FIFA is an organization that is against state intervention. FIFA as a world football organization requires all member associations that are members of FIFA to organize and manage their own football domain without third party interference, this is stated in the FIFA Statute article 14 paragraph 1 letter I:

"To manage their affairs independently and ensure that their own affairs are not influenced by any third parties in accordance with art. 19 of these Statutes."

And violations of the above article are subject to sanctions listed in FIFA Statute article 14 paragraph 3:

"Violations of par. 1 (i) may also lead to sanctions, even if the third-party influence was not the fault of the member association concerned. Each member association is responsible towards FIFA for any and all acts of the members of their bodies caused by the gross negligence or wilful misconduct of such members.

Football matches are officiated by one referee who controls and officiates the game, assisted by 2 assistant referees (linesmen). The referee must apply the rules of the game of football and ensure that the game takes place in the correct time. The referee is the main



adjudicator and enforcer of the main laws that apply on the football field in a match, namely the FIFA law of the game. The basic rules of football or commonly known as the rules of the game are made by an international sports body, the International Football Association Board or IFAB. In these rules there are also rules regarding football, things that can and cannot be done in a football match, types of violations to penalties or sanctions received by players if they commit violations. [6] Furthermore, the things contained in the rules of the game by FIFA are further developed into a disciplinary code which also regulates penalties or sanctions for disciplinary violations committed by players on the field at football matches. The offense of hitting opposing players and match devices that fall into the category of serious violations is regulated in article 18 Paragraph 2 FIFA Disciplinary Code:

<sup>13</sup> "Expulsion takes the form of a red card for players. The red card is regarded as direct if it sanctions serious unsporting behavior as defined by Law 12 of the Laws of the Game; it is regarded as indirect if it is the result of an accumulation of two yellow cards."

The types of sanctions for the offense of hitting opposing players and match officials are regulated in articles 19 paragraph 1, 20, 21, 22 of the FIFA Disciplinary Code.

Article 19 paragraph 1 FIFA Disciplinary Code:

"A suspension from a match is a ban on taking part in a future match or competition and on attending it in the area immediately surrounding the field of play."

Article 20 FIFA Disciplinary Code:

"A ban from the dressing rooms and/or substitutes' bench deprives someone of the right to enter a team's dressing rooms and/or the area immediately surrounding the field of play, and in particular to sit on the substitutes' bench."

Article 21 FIFA Disciplinary Code:

"A stadium ban prohibits someone from entering the confines of one or several stadiums."

Article 22 FIFA Disciplinary Code:

"A person may be banned from taking part in any kind of football-related activity (administrative, sports or any other)."[19]

### **3. Persatuan Sepakbola Seluruh Indonesia (hereinafter abbreviated as PSSI)**

In Indonesia, the body that handles football is Persatuan Sepak Bola Seluruh Indonesia (PSSI). PSSI was founded by a civil engineer named Soeratin Sosrosoegondo, On April 19, 1930, representatives from VIJ (Sjamsjoedin- RHS student); Bandoengsche Indonesische Voetbal Bond (BIVB) representative Gatot; Mataram Football Association (PSM) Yogyakarta, Daslam Hadiwasito, A. Hamid, M.. Amir Notoprato; Vortenlandsche Voetbal Bond (VVB) Solo Soekarno; Madioensche Voetbal Bond (MVB), Kartodarmoedjo; Indonesische Voetbal Bond Magelang (IVBM) E.A Mangindaan (at that time still a student of HKS / Teacher School, also captain of Kes. IVBM) and Soerabajasche Indonesische Voetbal Bond (SIVB) represented by Pamoedji. From this meeting, PSSI (Persatoean Sepakraga Seoloeroeh Indonesia) was born on April 19, 1930 in Yogyakarta. The name of PSSI was changed in the PSSI congress in Solo 1950 to the Indonesian Football Association which also appointed Ir. Soeratin as Chairman of PSSI.[20]

In the early days after the establishment of PSSI, namely in 1936, there was also a body that took care of sports in Indonesia. This body was called NIVU (Nederlandsh Indische Voetbal Unie) which was a football sports body supported by the Dutch Colonial government. After the Japanese occupation and the Proclamation of Independence, the Indonesian government determined that PSSI was the official body for football in the

country in 1949. Furthermore, PSSI was registered as a FIFA member on November 1, 1952 and became a member of the Asian Football Confederation (AFC) in the same year.

As the highest forum for football in Indonesia, PSSI is an extension of FIFA as the parent organization of world football. PSSI is subject to all the rules made by FIFA. The rules of football that exist in FIFA, namely the FIFA Statute, FIFA Disciplinary Code, FIFA Ethics Code, and Rule Of The Game.[21]

FIFA Statute is the basic rule or gasket that becomes the legal basis in FIFA and PSSI or in other words the FIFA statute is the basic law of football organizations throughout the world under FIFA. PSSI as a FIFA member association must comply with FIFA statutes. This FIFA statute by PSSI is ratified into the PSSI statute which applies to all PSSI member associations.[1]

FIFA disciplinary code is a disciplinary rule in football that applies to associations, clubs, players, officials, match officials, match agents, player agents and supporters. The article that regulates the scope of application of the FIFA Disciplinary Code is regulated in article 3, namely:

"The following are subject to this code:

1. associations;
2. members of associations, in particular the clubs;
3. officials;
4. players;
5. match officials;
6. licensed match and players' agents;
7. anyone with an authorization from FIFA, in particular with regard to a match, competition or other event organized by FIFA;
8. spectators."

FIFA disciplinary code, this was ratified by PSSI into the PSSI Disciplinary Code. In the PSSI Disciplinary Code there is an article that regulates the judicial body in football, which is listed in the PSSI Disciplinary Code article 76:

"The PSSI Judicial Body consists of the Disciplinary Committee, Appeals and Ethics Committee."

The Disciplinary Committee is a judicial body that has the duty and function of enforcing the rules issued by PSSI which are not under the authority of other bodies. The Appeal Committee is a judicial body that is used as a means of appeal for parties who are sanctioned by the Disciplinary Committee and the Ethics Committee. The Ethics Committee is a judicial body that has the duty and function of providing law enforcement for an ethical violation by an association member.

FIFA ethics code, is a rule that reflects the principles of the FIFA Code of Conduct, which defines the most important core values for behavior within FIFA as well as with external parties.[7]

Rule of the game, is a standard rule about the game of football which regulates the width of the field, the procedures for playing football, the types of violations and sanctions for violations on the field. All FIFA member associations must comply with the rules of the game to organize a football match.

In a football match, FIFA law is a transnational law that is *lex specialis* and becomes the main one in terms of protecting all those involved in the game of football and the referee is the main enforcer of the game in the match, while state law is set aside.

This transitional legal system, especially in professional football is the FIFA legal system which consists of *lex sportiva* and *lex ludica*. For *lex sportiva* in the form of statutes, regulations, directives, decisions and circulars issued by FIFA or FIFA bodies, confederations and FIFA member associations as well as jurisprudence issued by CAS. *Lex ludica* is the laws of the game, which consists of 17 rules. [22]

There are limitations to the criminal offense of persecution in the Criminal Code. These limitations are:

1.If the ball is in play, with restrictions:

If the ball is not in the player's possession and the opposing player commits an act that is not part of the game of football and in the Criminal Code includes the crime of persecution, such as hitting, kicking and elbowing. However, at the limit of the position of the ball in play, it is still necessary to be careful for law enforcement officials to enforce state law. Caution here in the sense that law enforcement officials must see the context of the actions carried out by players still in the category of football games or not, when the ball is still in the field of play.

2.If the position of the ball is Out of Play or the ball is not in the field of play. This happens when:

a.The referee has not blown the whistle to start the match, this applies from the first team to set foot in the stadium until the referee blows the match whistle to signal that the match has started.

b.The referee blows the whistle of the match has finished, this applies when the referee blows the whistle signaling the match has finished, if the player commits an act of persecution even though the player is still on the field, dressing room or inside the stadium then the state criminal law can be imposed.

Rule of The Game Law 9[2] explains the rules of the ball in and out of play:

1.Ball Out Of Play

The ball is out of play when:

a.It has wholly passed over the goal line or touchline on the ground or in the air

b.Play has been stopped by the referee

2.Ball in play

The ball is in play at all other times, including when it rebounds off a match official, goalpost, crossbar or corner flagpost, and remains in the field of play. The position of the ball not in play in Rule Of The Game Law 9 regarding the ball in and out of play is when the ball has fully crossed the goal line or a goal has occurred and also the ball has crossed the line in the field of play or the ball is out of the field of play. In addition, the position of the ball not in play here is also interpreted when the game is stopped by the referee. And when the position of the ball out of play then a violation or act that is not part of the game of football or not in the context of seizing the ball from the player's possession, then committing acts such as hitting, kicking, biting, elbowing which results in other people getting bodily injury and pain this is where positive law or the Criminal Code can enter. In addition to positive law, football law will also punish these actions because it certainly violates the rules of the game and the football disciplinary code. But, if the position of the ball is in play and there are actions from football players such as sledding tackle, body fights, elbowing, and kicking opposing players in the context of grabbing the ball from the opposing player's possession then state law cannot enter, because it is the territory of FIFA law or football law.[19]

The position of the ball in play is when the ball is in the entire field of play, including when the ball rebounds in a match, is hit by the goalpost, corner flagpole and remains in the field of play. Non fair play offenses when the ball is in play will be punished by the referee as the referee in a football match. Punishment for violations committed once will be rewarded with a yellow card and if the offense is committed repeatedly. it will be subject to a red card. But on certain occasions, the referee can immediately punish with a red card when these violations are committed dangerously and endanger the safety of players and all those involved in the match.[23]

## **DISCUSSION**

### **1. Handling of Criminal Acts of Assault Based on Aspects of Football Regulations**

Football matches cannot be separated from physical activity in it, physical contact is inevitable. For players to get injured, pain injury to the body is a risk that must be borne by a professional football player. FIFA as an international football organization makes rules for handling the actions or actions of players on the field in a match to protect the safety of players and all those involved on the field.[22] However, not all violations can be heard by the disciplinary committee, there are certain categories that must be met, namely:

#### **1. Non-Fairplay Violations of the Rule of the Game**

Violation of the Rules of the game and also the rules of the disciplinary code such as dangerous sleeding tackles, hitting referees, players, coaches, match officials and spectators.

#### **2. Violations of the Disciplinary Code**

Violations committed by players and all those involved in the match for acts prohibited in the Disciplinary Code such as racial acts, illegal manipulation of match results, doping, corruption and betting.

The rules for handling the actions or actions of players in football matches made by FIFA will be translated by each FIFA member association and become the basic rules for FIFA member associations in this case PSSI. In the author's description here, that the handling of persecution is carried out by the disciplinary committee as a PSSI judicial body that has the duty and function of enforcing the rules of the disciplinary code.[21] The handling of acts of persecution carried out by the Disciplinary Committee also aims to uphold the principle of Fairplay which is FIFA's tagline in football besides Unity & Respect.

The flow of handling acts of persecution committed by football players according to aspects of football regulations is as follows: 1) football match, 2) match minutes, 3) disciplinary committee, 4) disciplinary committee convenes, 5) decision, 6) sent to the player/club.[23]

The handling of persecution by football players in PSSI regional football competitions according to PSSI regulations, namely:

#### **1. Football match.**

In a football match, players who commit violations of the rules of the game on the field in a match, the referee as the main law enforcer on the field will punish the player according to the provisions of the rules of the game. In a football match, violations are divided into two namely minor violations and serious violations. Minor violations will be punished with a yellow card as a warning while serious violations which also include hitting, kicking, elbowing opposing players and match devices will be punished with a red card.

## 2. Minutes of the Match

After the match is over, the match inspector will draw up the match minutes. The minutes contain the minutes of the match, which includes a list of the competing teams, a list of the line-ups, the referee in charge, the organizing committee, and a record of events in the match. If a player is issued a yellow or red card, it will also be included in the minutes of the match.

## 3. Disciplinary Committee

If the match minutes have been made by the match inspector, then the match inspector will immediately send the match minutes to the PSSI disciplinary committee which can be delivered directly or sent via fax, letter or email. After the match report has reached the disciplinary committee, the disciplinary committee will assess whether there is an offense or incident in the match that needs to be given additional punishment by the disciplinary committee. [22]The disciplinary committee will assess the match report submitted by the match inspector, and if there are events in the match that need to be punished, the disciplinary committee will hold a disciplinary committee hearing.

### 1. Discipline Committee Hearing

After going through the assessment process and finding that there is a violation of the disciplinary code rules, the disciplinary committee will then hold a disciplinary committee hearing. The disciplinary committee hearing is led by 1 chairperson and at least 2 members.

### 2. Decision

The disciplinary committee will decide on a disciplinary decision in the disciplinary committee hearing. The form of disciplinary punishment decisions can take the form of fines, suspensions, to a lifetime ban on activities in the scope of football.

### 3. Delivered to the club/player

After the disciplinary decision is issued from the next disciplinary committee session, the disciplinary decision will be sent directly to the club / player concerned.

The authority of the PSSI disciplinary committee is regulated in the PSSI disciplinary code article 77 regarding the general authority of the PSSI disciplinary committee, it is stated that the PSSI Disciplinary Committee has the authority to impose sanctions on disciplinary violations of the regulations issued by PSSI which are not under the authority of other bodies. [21]Besides article 77 PSSI disciplinary code, the authority of the disciplinary committee is also regulated in article 78 regarding the special authority of the PSSI disciplinary committee:

1. Impose disciplinary sanctions against disciplinary violations that escape the attention of the matching equipment.
2. Correcting obvious errors in decisions given by the referee.
3. Extending the automatic suspension period obtained as a result of the player being sent off in accordance with the provisions of Article 15 paragraph (4) of this PSSI Disciplinary Code.
4. Determine additional sanctions, such as fines and other sanctions.

## 2. Handling of Criminal Offenses According to Criminal Law Aspects

In a football match, of course, it is inevitable from actions such as sledging tackle, body fights, elbowing, and kicking opposing players which of course can cause pain or injury to the body. FIFA as an international football organization makes a rule of football law to protect the safety of players and all those involved in the field. Rule of the game, disciplinary code is made by FIFA to enforce the principle of fairplay while also protecting players during the match. Actions such as sledging tackle, snatching the ball from the

opposing player's possession are indeed allowed in a football match. But the methods used must remain within the corridors of fairplay, unity and respect and of course the methods used must still be part of the game of football.[16]

If a player commits acts such as elbowing, biting, hitting to kicking an opposing player where the act is not in the context of fighting for the ball or is no longer part of the game of football this is where the state must be present. The persecution article in the Criminal Code can be imposed on players who commit non-fairplay actions that are not part of the game of football. As in the example of the case of Persis Solo player Nova Zaenal who beat Gresik United player Bernard Mamadou on February 12, 2009, where the action was carried out not in the context of a football game and far from the spirit promoted by FIFA, namely fairplay, unity & respect. [6, 7]

This issue should not be interpreted as a state intervention into the realm of football, but rather a different form of handling from the state towards the realm of football. This is also in order to protect all those involved in the game and maintain the spirit of the match itself. In connection with the information above, the procedure for handling criminal acts of persecution by football players in PSSI regional competition matches according to criminal law aspects is as follows:

#### 1. Report or complaint

At the initial stage there must be a report from the victim who experienced persecution to the police, in the authorized area. This is because the police have certain areas in the mechanism of handling the investigation, arrest, and settlement of a criminal case. A report is a notification submitted by a person due to rights or obligations under the law to an authorized official about a criminal event that has occurred or is occurring or is suspected of occurring. Meanwhile, a complaint is a notification accompanied by a request by an interested party to an authorized official to take action according to the law against a person who has committed a complaint criminal offense that harms him. (Article 1 KUHAP).

#### 2. Investigation

After the police get a complaint or report, then the police are obliged to follow up on the report or complaint by conducting an investigation. The investigation includes seeking information from both witnesses and other people who are related and aware of the incident, examination and searches to find and collect evidence, confiscation of evidence, taking fingerprints, photographing a person or other things needed, determining the article, taking other actions according to the law that are responsible and making and submitting reports on the results of the implementation of actions to the investigator.

After the minutes of the examination at the scene of the crime have been made and the letters of examination of witnesses and complainants have been made, the results of the investigation are then submitted to the investigator for the commencement of the investigation. If from the results of the investigation there is sufficient evidence that convinces the existence of a criminal act of persecution, then the investigator notifies this to the Public Prosecutor by issuing a Notice of Commencement of Investigation (SPDP) (Article 109 paragraph 1 KUHAP). After sufficient evidence is collected, the investigator then arrests the suspect, followed by detention.

The detention of the suspect is valid for 20 days and can be extended for 40 days by the Public Prosecutor (Article 24 paragraph 1 and 2 of the Criminal Procedure Code). And do not forget to notify the suspect's family of the detention carried out by the police.

#### 3. Filing

The investigator makes an official report on the implementation of the actions referred to in Article 75 without prejudice to other provisions in this law, and the investigator submits

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the case file to the Public Prosecutor, namely the Prosecutor who is authorized by law (Article 13 of the Criminal Procedure Code) to prosecute and implement the judge's decision.

4. The file is forwarded to the Public Prosecutor

The Public Prosecutor receives and examines the investigation case file from the investigator or assistant investigator, conducts pre-prosecution if there are deficiencies in the investigation by providing instructions in the context of improving the investigation from the investigator, grants an extension of detention, conducts detention or continued detention and or changes the status of detention after the case is submitted by the investigator, makes an indictment, submits the case to the court, notify the defendant of the date and time of the trial accompanied by a summons, both to the defendant and witnesses to appear at the hearing that has been determined, conduct prosecution, close the case in the interests of the law, and take other actions within the scope of duties and responsibilities as a public prosecutor according to statutory provisions, implement the judge's decision (Article 14 KUHAP). If the investigation, as well as the file has been completed by the investigator, is considered complete, and declared P.21 (complete) by the District Attorney's Office, then it is then continued with the delivery of stage 2 which includes the transfer of responsibility for the suspect and evidence to the Public Prosecutor (Article 8 of the Criminal Procedure Code).

From this description, it can be said that:

1. The elements of the crime of persecution by football players in the PSSI regional football competition match in terms of the Criminal Code consist of the element of intent, the element of action, the element of consequences in the form of pain or bodily injury, the element of which consequences are the only goal. While in the rules of football there are still no specific legal rules for persecution in matches.
2. In football law, the act of persecution still does not regulate to the stage of motive so that the elements of persecution cannot be known, the act of persecution is only regulated by actions.
3. The handling of criminal acts of persecution by football players in PSSI regional competition matches according to aspects of football regulations starts from the match, after the match the match inspector will make the minutes of the match. Furthermore, the minutes of the match will be sent or reported to the PSSI disciplinary committee which is then assessed whether it is necessary to conduct a komdis hearing for the actions of players who violate the disciplinary code in a match.

The commission hearing will result in a disciplinary decision against the player concerned and after the disciplinary decision is issued it will be immediately conveyed to the player. While handling according to the criminal law aspect starts from a report from the victim of persecution to the police in this case the player who is the victim, then the police will hold an investigation process, but the police here must also be careful in looking at the context of the persecution offense, because if the intended persecution is still in the context of a football game, the investigator certainly cannot raise the stage of the case to an investigation. Because the act is not part of a football game and the investigator has obtained 2 (two) sufficient evidence, the investigator will immediately raise the status of the case to the investigation stage and immediately investigate the suspect. After the investigation process is complete, the next stage will be the filing of the case file which will be sent to the Public Prosecutor if the file has been declared P.21 (complete) along with the suspect and evidence.[12, 13]

## CONCLUSION

The application of the persecution article in the Criminal Code for footballers needs to be careful. The police must see the act of violation in a football match which is categorized as persecution in the Criminal Code whether the act is still part of the game of football or not. The act of hitting, kicking, elbowing if it is still part of the game of football the police cannot apply state law, because it is a form of intervention into the realm of football where FIFA strictly prohibits it.

Enforcement of football laws at a match. Unfair actions that endanger all those involved in a football match must be strictly punished so as to create a deterrent effect. The sanctions given must also be aggravated through the role of the PSSI Disciplinary Committee.

## Conflict of Interest

The authors declare no conflicts of interest in this work and publication of this paper.

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