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Implementation of Economic Rights Protection for Broadcast Right Holders of Football Matches Through the Consolidation of Compensation Claims in Criminal Cases Based on Law No. 28 of 2014 on Copyright and Article 98 of Law No. 8 of 1981 on Criminal Procedure

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Abstract: The development of information technology has influenced various sectors, including cinematography, which is protected by copyright law, especially in the context of broadcasting football matches. Despite copyright protection, many parties engage in unauthorized rebroadcasting, causing a breach of economic rights for the relevant rights holders. This research analyzes the legislative regulations protecting football broadcasting rights in Indonesia and the financial rights protection related to rebroadcasting. This research aims to understand the legal rules about football broadcasting rights and the safety of economic rights for broadcasting rights holders. A mixed legal study method combines normative and empirical legal research. The research results indicate that the Copyright Law provides adequate protection for the economic rights of football broadcasting rights holders. These exclusive rights are acquired by legal entities authorized to broadcast audiovisual works through radio media. Although criminal judgments cannot fully restore economic losses, mainly because they are penal, further steps are necessary to ensure compliance with these exclusive rights

Keyword: Economic Rights, Broadcasting, Related Rights.

INTRODUCTION

Arrangements related to intellectual property rights (IPR), especially Copyright, are not new in Indonesia. This can be seen from the several changes in copyright law. Based on Article 1 number 1 of Law Number 28 of 2014 concerning Copyright (Copyright Law), Copyright is the exclusive right of the creator that arises automatically based on the declarative principle after a work is realized in a tangible form without reducing restrictions by the provisions of laws

and regulations (Megahayati & Amirulloh, 2021). These provisions arise due to the development of information technology worldwide, including Indonesia.

One of the impacts of the development of information technology is the influence of laws in cinematography. Cinematography is an object protected by the Copyright Law. One of the cinematographic works protected by Copyright is a soccer match broadcast (Al-faqih & Yoga, 2022). The number of viewers of soccer match broadcasts always increases because soccer is an activity that attracts a lot of interest from all levels of society. PT Global Media Visual (Mola TV), as the sole broadcasting rights holder of the Premier League in Indonesia, has also reported several alleged violations of the Copyright Law related to illegal broadcasts of the Premier League to law enforcement officials. These violations include those committed by cable television operators, online streaming sites, and cafes or bars (Heriani, 2022). In September 2022, the Directorate General of Intellectual Property (DJKI) took action against four restaurants and bars in Padang, Yogyakarta, Pekanbaru, and Batam for alleged copyright infringement of Premier League broadcasts. The cafes and bars allegedly illegally aired Premier League broadcasts without permission from Mola TV (Baskoro, 2020)

Basically, economic rights are rights attached to a copyrighted work that allows the creator or copyright holder to benefit economically from the work. This suitable covers various forms of utilization of the work, such as reproducing, distributing, renting, exhibiting, or broadcasting the work (Saidin, 2003). Economic rights are the right to earn money from the work created. Meanwhile, broadcast rights are a more specific form of economic rights. Broadcasting rights are the rights to broadcast a work through broadcasting media, such as television or radio (Megahayati & Amirulloh, 2021). Through the ownership of broadcasting rights, a person or institution can determine when, where, and how a work can be broadcast (Djamal & Fachruddin, 2013). There are several ways to obtain these rights, such as being the individual who created the work and thus automatically owns the Copyright through a license agreement or copyright registration (Mahadi, 1985).

Violating broadcasting rights for soccer matches can harm the broadcasting rights holder economically and morally. Economically, the impacts of broadcasting rights infringement include financial loss, decreased revenue, damage to reputation, decreased value of broadcasting rights and lack of investment and future development. Economically, infringement of broadcast rights can lead to reduced income for broadcast rights holders. The provisions in the Copyright Law explicitly provide protection and restoration of conditions for rights holders harmed by infringement. Article 96, paragraph (2) of the Copyright Law states that compensation is given and included simultaneously in the court's ruling on criminal cases of Copyright and Related Rights. This provision is the basis for compensating rights violations in a criminal judgment.

Article 98 of Law Number 8 of 1981 Concerning Criminal Procedure Law (KUHP) explains that if the actions underlying the indictment in the examination of a criminal case by the district court result in losses to another party, the presiding judge, at the request of the affected party, may decide to combine the civil lawsuit for damages with the criminal case. This request must be submitted before the prosecutor presents the criminal charges. If the prosecutor is absent, the request must be submitted before the judge delivers a verdict.

Although there are already legal provisions protecting Copyright through Article 96 paragraph (2) of the Copyright Law and the technical handling of cases through Article 98 of the KUHP, there has been insufficient practice in criminal verdicts that provide adequate protection, particularly concerning the broadcasting rights of football matches. As a result, the protection of intellectual property rights remains limited in providing adequate compensation and economic recovery for broadcast rights holders.

This article addresses two key issues: first, how is the implementation of Law No. 28 of 2014 on Copyright and Article 98 of Law No. 8 of 1981 as criminal procedure instruments in

obtaining the economic rights of broadcast rights holders for football matches? Second, what is the impact of applying these criminal law instruments in securing the economic rights of broadcast rights holders for football matches?

The article has two main objectives. First, it aims to analyze and understand the implementation of Law No. 28 of 2014 on Copyright and Article 98 of Law No. 8 of 1981 as criminal procedure instruments in securing the economic rights of broadcast rights holders for football matches through criminal verdicts. Second, it seeks to explore the impact of applying these criminal law instruments in obtaining the economic rights of broadcast rights holders for football matches. The novelty of this article lies in exploring the extent to which the implementation of the Copyright Law and Article 98 of the Criminal Procedure Code (KUHAP) serves as criminal law instruments in protecting the economic rights of broadcast rights holders for football matches in Indonesia. Based on these two legal instruments, broadcast rights holders can be criminally protected to receive compensation for economic losses resulting from broadcasting rights violations. Furthermore, through the criminal justice process, these instruments can serve as a legal basis for obtaining economic rights via civil lawsuits for damages. Using criminal law instruments, the recovery of economic rights for football match broadcast rights holders, as stipulated in the Copyright Law, is strengthened by Article 98 of the KUHAP. Thus, combining these two legal instruments provides a comprehensive procedure for securing economic recovery due to violations of football match broadcasting rights.

Violation of economic rights in broadcasting intentionally and without rights by the Director of a Limited Liability Company (PT) through a study of Decision No. 193/PID.SUS/2019/PN.TTe. From his analysis, it is known that the violations committed by PT Bintang Kejora Cable have fulfilled the elements of intentionally and without violating economic rights, so criminal responsibility can be requested from the Director of PT. Based on this, the judge sentenced him to 1 year and six months in prison and a fine of One Billion Rupiah. Nevertheless, Teguh considers that the imposition of criminal penalties carried out in the penitentiary as the executor of the verdict will not deter the perpetrators of copyright infringement (Sitompul, 2020).

Under Law No. 28 of 2014 on Copyright, compensation for copyright infringement is charged to the perpetrator for losses incurred against the creator, copyright holder and holders of related rights or their heirs who suffer economic losses (Lumingkewas, 2017). This means that previous studies have shown that broadcast rights holders only rely on Law Number 28 of 2014 concerning Copyright in obtaining economic rights due to violations. Meanwhile, the author sees that, to create a deterrent effect in the violation of rights related to football broadcasting, it can use criminal law instruments in the form of Law No. 28 of 2014 on Copyright to obtain compensation for economic losses caused by violations of broadcasting-related rights and at the same time use Article 98 of Law No. 8 of 1981 on Criminal Procedure Law to obtain economic rights through compensation claims.

Based on the results of previous studies, such as those by Sitompul (2020) and Lumingkewas (2017), which investigated efforts to obtain economic rights due to violations of broadcasting rights, the author also elaborates on various studies. For instance, Ramos Adi Perisai's research showed that there was an error by the Supreme Court in determining the violation of the plaintiff's copyright license and in qualifying football match broadcasts as objects of copyright protection (Perisai, 2023). Additionally, a study by M. Rinnaldy Kasim analyzes criminal Law in handling illegal broadcasting of paid football matches based on criminal law provisions (Kasim, 2023). Through a literature review of previous studies, the author identifies that no similar writings have yet examined the implementation of the Copyright Law and Article 98 of the Criminal Procedure Code (KUHAP) as legal instruments in protecting the Economic Rights of Broadcasting Rights Holders for Football Matches in Indonesia.

METHOD

This study uses a mixed legal study method, also known as socio-legal, to address several issues related to the protection of economic rights for holders of related rights (related right/neighbouring right) in football match broadcasts. This approach combines doctrinal or normative legal research with empirical or socio-legal research methods (Shidarta, 2009). According to Sunaryati Hartono, normative legal research can look for legal principles, legal theories and the formation of new legal principles (Hartono, 1994).

On the same subject, an empirical normative approach will also be applied. Essentially, this approach is a combination of normative legal approaches with the addition of various empirical elements. The normative-empirical research method will focus on the implementation (facts) of normative legal provisions (laws) in the protection of economic rights for holders of related rights (related right/neighbor right) in football match broadcasts. This is done by collecting and analyzing legal regulations such as the Copyright Law and the Criminal Procedure Code (KUHAP), as well as several criminal decisions related to violations of broadcasting rights from 2016-2023 through the Supreme Court Decision Directory website.

Additionally, this study employs interviews as a data collection technique. Interviews are conducted with relevant sources to gather primary data. According to Bagir Manan, normative research involves studying the existing legal rules and principles, emphasizing library research or secondary data (Soekanto & Mamudji, 2008). The normative juridical approach method is used to discuss the provisions of legislation related to the formulation of laws concerning the economic rights of holders of related rights (related right/neighbor right) in football match broadcasts. This approach focuses on analyzing and interpreting legal rules and regulations to understand how they are structured and applied in protecting these economic rights..

RESULTS AND DISCUSSION

Implementation of Economic Rights of Rights Holders Related to Football Match Broadcasting

John Locke and Friedrich Hegel originally conceived property rights. John Locke saw the relationship between ownership and human rights, while Hegel saw the relationship between ownership and human existence. John Locke's view targets the exclusivity of human property rights over private goods, which he realized thanks to his efforts in converting natural goods (Gordon, 1990). Friedrich Hegel's view focuses on the manifestation of a person's self through their ownership of personal property; for this reason, it becomes valuable and unique. The development of this understanding gave rise to the spirit of granting economic rights to individuals and legal entities. Both of these figures have views related to property rights owned by individuals and related to the rights associated with broadcasting football matches.

John Locke's notion of the exclusivity of the property rights of a human being and his personal property became the basis of economic rights, which became one of the concepts of intellectual property rights (IPR) (Gordon, 1990). Hegel's idea of human self-manifestation through property rights over personal property becomes the basis of moral rights that maintain the continuity of the relationship between humans and their personal property (Harris, 2001). Economic rights ensure the economic utilization of intellectual property, while moral rights ensure individual ownership of the intellectual property itself (Usman, 2003). Protection of economic rights related to IPR is also increasingly widespread in line with technological advances.

Intellectual property rights are exclusive rights granted to the creator or holder of such rights to regulate the use of specific works or information (Panjaitan & Sinaga, 2017). These rights consist of moral rights and economic rights. Moral rights include the right to include or not include the creator's name on copies of works that are used publicly. Meanwhile, economic rights are an inseparable part of Copyright. Economic Rights, in principle, provide an

opportunity for creators to get rewarded in the form of financial benefits for the work they have created (Harris, 2001). The following are some of the rights that can be categorized as economic rights in international Copyright: Reproduction Rights, Adaptation Rights, Distribution Rights, Public Performance, Broadcasting Rights, and Cablecasting Rights (D'Amato & Long, 1996).

Meanwhile, Economic Rights in Law Number 28 of 2014 concerning Copyright are stipulated in Article 9 paragraph (1), which states that Economic Rights for Creators or Copyright Holders consist of publishing the work, duplicating the work in all forms, translating the work, adapting, arranging, or transforming the work, distributing the work, performing the work, announcing the work, communicating the work, and leasing the work. The economic rights in this Law regulate the validity period, which either depends on the creator himself or applies during the life of the creator and will continue for 70 years after the creator dies, where the continuity will take effect and be calculated after one day from the death of the creator.

This economic rights provision then regulates the rights holders of broadcasting football matches in Indonesia. This means that the economic rights of broadcasting rights holders include the exclusive right to publish, reproduce, and distribute the work and the right to obtain compensation for the use of the work (Munandar & Sitanggang, 2008). As explained earlier, in addition to Copyright, which is part of intellectual property rights, there are neighboring rights.

In an effort to obtain the economic rights of holders of rights related to the broadcast of football matches, Article 96 of the Copyright Law explains that creators, copyright holders, and owners of related rights or heirs who suffer losses of economic rights are entitled to receive compensation. The compensation must be included in the verdict of the court handling the criminal case of Copyright and Related Rights. Furthermore, compensation to the Creator, Copyright holder, and owner of Related Rights must be made six months after the court decision has permanent legal force.

By the provisions of Article 96 paragraph (1), (2), and (3) of the Copyright Law, the provisions of the legislation guarantee and protect the rights of creators, copyright holders, and holders of related rights or their heirs who suffer losses of economic rights are entitled to compensation. This is stipulated in the court's ruling with permanent legal force, indicating the legal certainty of compensation to be imposed on certain parties who have committed copyright infringement as a legal sanction.

Article 95 of the Copyright Law stipulates that the settlement of copyright disputes can be done through alternative dispute resolution, arbitration, or court. The authorized court is the Commercial Court, while other courts cannot handle the settlement of Copyright disputes. In addition to violations of Copyright and Related Rights in the form of Piracy, as long as the parties to the conflict are known to exist and are located in the territory of the Unitary State of the Republic of Indonesia, they must first pursue dispute resolution through mediation before filing criminal charges,

The applicable legal provisions in Article 95, paragraphs (1) to (4) indicate that the settlement of copyright disputes can be done through litigation and non-litigation, mediation, consultation and so on (Social Disputes) or the courts (Legal Disputes). The settlement of legal disputes on the violation of rights related to broadcasting as regulated by copyright law can be through criminal law disputes, civil law disputes, state administrative law disputes, and international law disputes.

In the context of criminal penalties, related rights violations may be subject to criminal sanctions in the form of imprisonment and fines by the provisions stipulated in the Copyright Law. These criminal sanctions aim to deter perpetrators of copyright infringement and protect the interests of legitimate holders of related rights (Hartono, 1994). Economic losses arising

from violation of associated rights are a form of criminal offense punishable by imprisonment and fines

Criminal penalties in piracy cases, specifically related to infringement of such rights, are regulated in Law Number 28 Year 2014 on Copyright (Copyright Law). Several articles in the Law explain the criminal provisions, including Article 118 of the Copyright Law. The article stipulates sanctions for any individual who intentionally and without authorization infringes the economic rights to Copyright or related rights for commercial purposes. The individual may be subject to imprisonment of up to four years and/or a maximum fine of one billion rupiah.

In addition to criminal sanctions, the Copyright Law also provides provisions regarding compensation claims for related rights holders who suffer economic losses due to infringement of these rights. The relevant right holders may file a claim for compensation to the perpetrators of piracy to obtain compensation for the losses experienced. This provision is further regulated in Article 96 of the Copyright Law. Compensation is given and included simultaneously in the court's verdict on criminal cases of Copyright and related rights. Compensation to creators, copyright holders, and owners of related rights is paid six months after a court decision with permanent legal force.

The purpose of compensating for the infringement of economic rights in a criminal judgment is to recover losses suffered by legitimate rights holders due to the violation (Landes & Posner, 2003). Economic rights include various aspects, such as financial loss, loss of income, or other losses directly related to violating the right. Through the provision of compensation, criminal decisions are expected to be able to compensate victims so that they can return to the economic situation they would have had if the rights violation had not occurred.

In addition, the award of damages also aims to provide a deterrent effect to the perpetrators of the relevant rights violations, hoping they will consider the economic impact of their actions in the future. Thus, compensating for breaches of financial rights in criminal decisions is to restore the victim to their rightful state and prevent similar violations from occurring. However, judges in criminal choices often do not impose compensation sanctions and only impose imprisonment and fines.

Criminal proceedings can be combined with compensation claims even though punishment is the optimum remedy due to the principle of integrated justice recognized in the legal system. In this context, when a criminal act also causes harm to certain parties, the Law provides space for victims to claim compensation simultaneously in the criminal process. This aims to ensure that victims get comprehensive justice in terms of perpetrator punishment and recovery of losses suffered. Thus, although punishment is used as a last resort (*ultimum remedium*), integration with civil claims allows for more comprehensive justice, given that both can complement each other in sanctioning the perpetrator while restoring the rights of the victim.

Article 98 of the Criminal Procedure Code plays a vital role in protecting the economic rights of copyright owners by providing a legal framework for resolving copyright disputes in the criminal courts. First, Article 98 of the Criminal Procedure Code authorizes criminal courts to handle copyright disputes related to criminal offenses so that copyright owners can sue infringers through criminal channels. Second, in the case of copyright infringement included in the criminal realm, the criminal court may order the defendant to compensate the copyright owner. This means that the copyright owner can see the infringer punished criminally and receive financial compensation for the economic losses caused by the infringement.

Third, with the authority of criminal courts to handle copyright infringement cases, law enforcement can be done effectively and fairly. This assures copyright owners that their economic rights will be adequately protected, deterring copyright infringers. Therefore, Article 98 of the Criminal Procedure Code serves as a legal instrument and an essential economic rights protection tool for copyright owners.

Limited Function of Criminal Verdict in Protecting Economic Rights for Related Rights Holders

Criminal verdicts in the form of imprisonment and fines cannot recover economic losses suffered by related rights holders when violations occur, for example, in the case of illegal broadcasting of football matches. These financial losses can be in the form of loss of income from broadcasting rights, copyrights, or other intellectual property rights. Several factors can limit criminal decisions in protecting economic rights; one is that the evidence used in criminal decisions cannot prove the financial losses experienced by related rights holders.

Evidence in a criminal offense is everything that can be used to prove the existence of a criminal offense to determine whether a defendant can be convicted. Evidence is regulated in the Criminal Procedure Code (KUHAP). Based on Article 184 paragraph (1) of the Criminal Procedure Code (KUHAP), valid evidence in criminal cases is witness testimony, expert testimony, letters, instructions, and testimony of the defendant. Under the Copyright Law, infringement of the relevant rights can result in various sanctions, including imprisonment, fines, and the obligation to pay compensation. Punitive damages primarily compensate for the loss suffered by the relevant right holder as a result of the infringement. Through the award of damages, the criminal law system protects copyright holders or owners of related rights, ensuring that they do not suffer economic losses due to the infringing acts of others.

Moreover, punitive damages also serve as an incentive to deter future infringement of the relevant rights, as the infringer will bear the financial consequences of their actions. Thus, awarding damages in the context of a breach of related rights in the Copyright Law aims to recover losses suffered by rights holders and a deterrent to prevent the recurrence of rights violations in the future. Based on the interview results, Cesar Resha believes that prosecution through the merger of compensation cases with Article 98 of the Criminal Procedure Code can help related rights holders claim material losses. This form of material damages can be in the form of profits that the perpetrator obtained when broadcasting football matches that were illegally traded.

One example of a case of incorporation of compensation is Decision Number 196/Pid/S/B/1998/PN.Sidoarjo. The verdict explained that the accident that resulted in the applicant's injuries led the judge to decide that in addition to criminal sanctions, the respondent must also compensate several receipts and other expenses amounting to three hundred thousand rupiahs to be paid to the plaintiff. However, regarding the merger of cases related to broadcasting rights cases, there still needs to be decisions granting this.

The table below summarizes the criminal decisions found in the Indonesian Supreme Court's decision directory related to violations of rights related to broadcasting football matches from 2016 to 2023. This table presents the punishment imposed, whether imprisonment, fines, or compensation. By understanding these decisions, we can gauge the extent to which the courts have been able to restore the rights holders' situation about the award of damages. Such analysis will provide valuable insights into the effectiveness of the judicial system in providing adequate compensation for victims of rights violations and its impact on respect for intellectual property rights in the football match broadcasting industry.

Table 1. Criminal Convictions for Rights Violations Related to the Broadcasting of Football Matches

No.	Decision	Imprisonment	Penalties	Compensation
1.	Decision Number 158/Pid.Sus/2019/PN.Tim	1 (one) year	Rp.500,000,000 (five hundred million rupiah)	None
2.	Decision Number 193/Pid.Sus/2019/PN Tte	1 (one) year 6 (six) months	Rp.1,000,000,000,- (one billion rupiah)	None
3.	Decision Number 420/Pid.Sus/2020/PN.Bdg	6 (six) years	Rp. 750,000,000 (seven hundred fifty million rupiah)	None

4.	Decision 416/Pid.Sus/2020/PT.Bdg	Number	1 (one) year 6 (six) months	Rp. 750,000,000 (seven hundred fifty million rupiah)	None
5.	Decision 820/Pid.Sus/2021/PN Jkt.Utr	Number	1 (one) year	Rp. 100,000,000 (one hundred million rupiah)	None

Source: Directory of Supreme Court Decisions, 2024

After collecting criminal decisions and analyzing the forms of sanctions for violations of related rights from 2016 to 2023 through the Directory of Supreme Court Decisions, no compensation verdict was found. The absence of punitive damages to relevant rights holders in these criminal decisions is an important note because of its significant impact on protecting intellectual property rights. Without punitive damages, copyright holders or related rights owners may not get the compensation they deserve for the losses suffered due to infringement. One of the limitations of the criminal function in copyright cases also lies in the type of damages that can be demanded. Cesar Resha mentioned in the interview that the damages that can be prosecuted through criminal proceedings are material so immaterial damages are not covered by the incorporation of cases through criminal proceedings.

This creates an economic disadvantage for holders of the relevant rights and reduces the incentive to protect those rights in the future. In addition, the absence of punitive damages verdicts may also send the wrong signal to offenders by reducing the deterrent effect to prevent similar rights violations in the future. Therefore, it is essential to review the legal practices related to protecting intellectual property rights, including the award of damages, to ensure that the judicial system provides adequate protection for relevant rights holders.

CONCLUSION

The provisions in the Criminal Procedure Code and the Copyright Law have regulated the compensation mechanism for violations of related rights. However, the sanctions imposed are only in the form of imprisonment and fines. The protection of the economic rights of rights holders related to the broadcast of football matches has been adequately regulated by copyright law. Related rights associated with the broadcast of football matches are exclusive rights owned by certain legal entities, namely the right to broadcast or broadcast audiovisual copyrighted works through radio media. It is essential to protect the exclusive rights of license holders to broadcast football matches from illegal broadcasting. Illegal broadcasting can be costly for broadcast license holders, resulting in decreased revenue and loss of control over broadcast rights. One step that could be taken is to encourage redress through criminal proceedings. Rightsholders should consider seeking damages in criminal proceedings to more effectively recover financial losses associated with the economic harm caused by the infringement of broadcasting rights. This could include claims for damages and recovery of losses incurred. Cooperation between the government, the public, and broadcasting licensees is needed to create an environment that protects the exclusive rights of football match broadcasting licensees from illegal broadcasting practices.

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