

ABSTRAK

The diversity of Indonesian art and culture as part of intellectual wealth, holds strategic value not only culturally but also economically, thus requiring effective legal protection. In the copyright regime, Article 9 paragraph (2) of Law Number 28 of 2014 on Copyright states that the exercise of economic rights must be based on the authorization of the creator or copyright holder. However, the provisions of Article 10 paragraph (1) of Government Regulation Number 56 of 2021, which regulates royalty payments through the National Collective Management Institution, have led to multiple interpretations regarding whether royalty payments can replace the creator's authorization. This study aims to understand and analyze the creator's authorization as an absolute requirement in the exercise of economic rights, as well as to examine the legal consequences of utilizing works without the creator's permission. The research method used is normative juridical with an approach based on legislation and conceptual analysis. The research results indicate that the obligation of the creator's permission is conditionally mandatory, with limited exceptions through the blanket license mechanism as regulated in Article 23 paragraph (5) and Article 87 paragraph (4) of the Copyright Law, which only applies to performing rights. Meanwhile, mechanical rights and synchronization rights still require a direct license from the creator. The absence of the creator's permission in commercial use results in the loss of legal basis for exercising economic rights and causes legal liability in the form of civil, criminal, and administrative sanctions.

Keywords: Copyright; Creator's Permission; Economic Rights

Keragaman karya seni dan budaya Indonesia sebagai bagian dari kekayaan intelektual memiliki nilai strategis tidak hanya secara kultural, tetapi juga ekonomi, sehingga memerlukan perlindungan hukum yang efektif. Dalam rezim hak cipta, Pasal 9 ayat (2) Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta menegaskan bahwa pelaksanaan hak ekonomi wajib didasarkan pada izin pencipta atau pemegang hak cipta. Namun, ketentuan Pasal 10 ayat (1) Peraturan Pemerintah Nomor 56 Tahun 2021 yang mengatur pembayaran royalti melalui Lembaga Manajemen Kolektif Nasional menimbulkan multitafsir mengenai apakah pembayaran royalti dapat menggantikan izin pencipta. Penelitian ini bertujuan untuk mengetahui dan menganalisis izin pencipta sebagai syarat mutlak dalam pelaksanaan hak ekonomi serta mengkaji akibat hukum pemanfaatan ciptaan tanpa izin pencipta. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan peraturan perundang-undangan dan konseptual. Hasil penelitian menunjukkan bahwa kewajiban izin pencipta bersifat *conditionally mandatory*, dengan pengecualian terbatas melalui mekanisme *blanket license* sebagaimana Pasal 23 ayat (5) dan Pasal 87 ayat (4) UU Hak Cipta yang hanya berlaku pada *performing rights*. Adapun *mechanical rights* dan *synchronization rights* tetap mensyaratkan *direct license* dari pencipta. Ketiadaan izin pencipta dalam pemanfaatan komersial mengakibatkan hilangnya dasar legalitas pelaksanaan hak ekonomi dan menimbulkan tanggung jawab hukum berupa sanksi perdata, pidana, dan administratif.

Kata Kunci : Hak Cipta; Izin Pencipta; Hak Ekonomi
