

Implementation Of Dispute Resolution in the Field Copyright Upon Signing of the Beijing Treaty

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ABSTRACT

Indonesia became a WIPO member country on December 18 2012 co-signed the Beijing Treaty at the World Intellectual General Assembly forum Property Organization in Geneva Switzerland. Implementation of the Beijing Treaty in Indonesia itself is quite interesting to study because the creative industry is in the form of performances Audiovisual in Indonesia itself is a profession so it is needed protection of copyright in the form of moral and economic rights to works audiovisuals, especially those broadcast or shown through media facilities technology. The legal research method used in this research is research normative juridical which is research conducted or aimed only at written regulations with the nature of descriptive analysis research which is a method that functions to describe or provide an overview of the object under study. The data source used is secondary data with analysis quantitative data. The government is expected to make clear policies regarding protection and classification and definition of AudioVisual Works in Indonesia because with Current technological developments make AudioVisual Works increasingly popular developing so that now a clear policy regarding protection is needed AudioVisual work that is in accordance with technological developments, Background The Beijing Treaty itself is linked to several conventions such as the Rome Convention so that the WPPT should be a basis for the government to create policies in the form of statutory regulations to protect works AudioVisual broadcast via electronic media or digital media and The current problems of creative industry players, especially in the field of work AudioVisual regarding the protection and recognition of AudioVisual's works aired through electronic media regarding this matter, it is hoped that the government will which has ratified the Beijing Treaty to create implementing regulations related to registration or recognition mechanisms and claims to the rights of perpetrators The creative industry is specifically related to performers of AudioVisual Works

Keywords:

Treaty,
 Intellectual,
 Property,
 Beijing,
 Protection

INTRODUCTION

The current regulation of copyright as a type of Intellectual Property Rights cannot be separated from the consequences of Indonesia following the trade agreement in the Uruguay Round. The agreement was signed on April 15 1994, which included the formation of the world trade organization or WTO (World Trade Organization) as a replacement for GATT (General Agreement on Tariffs and Trade). (Kholis Rhosiah, 2015) As one of the countries participating in this agreement, Indonesia has ratified the results of the Uruguay Round by enacting Law Number 7 of 1994 concerning Ratification of the Establishment of the World Trade Organization. Through this ratification, Indonesia must adapt every legal regulation in the field of trade to the principles contained in the Ratification of the Establishment of the World Trade Organization The development of information and technology cannot be stopped and has changed and influenced all aspects of people's lives. It is also one of the factors that influences aspects of people's creativity. Currently, many creative works are created by the public through or using technology, the creative process through or using information and technology means produces creative works, including technological discoveries, business and trade concepts through technology,

to creative works in the form of entertainment in audiovisual form. Technological developments, one of which has produced many social media such as Facebook, Twitter, Instagram, Line, etc. and entertainment media through online applications such as YouTube, Netflix, Viu, Joox, and so on, have replaced mainstream media such as television, radio, and others. In its development, social media and online application-based entertainment media have created many creative works which in their development have resulted in many economic rights.

The presence of economic rights in the process of creating creativity through technological media means that currently these technological media have become a new economic field in the process of creating works. This phenomenon is now called the creative economy. The creative economy is the creation of added value (economic, social, cultural, environmental) based on ideas born from the creativity of human resources (creative people) and based on the use of knowledge, including cultural heritage and technology. Audiovisual works produced or broadcast through current technological means, namely in the form of films or cinematography, music and songs, videoblogs, or even photos and stories or stories about everyday life, these forms of audiovisual works have direct or indirect economic rights. Direct economic rights from audiovisual works that are broadcast or produced through technological means are economic rights that are obtained based on royalties, fees or profits that are generally obtained from payments or subscription fees made by consumers or users who download or subscribe. online-based entertainment media applications such as Netflix, Viu and Joox (Monika Suhayati, 2014)

Audiovisual works that are shown or broadcast through entertainment application media, not only have direct economic rights from profits from consumers or users, but also have economic rights from royalties for the broadcast of audiovisual works, which are generally in the form of films or cinematography and music or broadcast via entertainment media applications. Indirect economic rights are economic rights obtained from sponsors or advertisements from shows or broadcasts of audiovisual work content which are generally found on social media such as Facebook, Instagram and YouTube. Indirect economic rights themselves arise based on the number of viewers of social media posts which then attract sponsors or advertisements to advertise their products on these social media accounts.

The economic rights created through the technology-based creative economy currently require protection. What is clear, especially regarding works broadcast via social media, is that various problems often arise regarding audiovisual works via social media and also works via online entertainment application media, although the copyright law regulates the protection of broadcasting institutions, but is the application media connected Online-based is included in the category of broadcasting institutions, this is not clearly regulated in the Copyright Law The problem that often arises from Audivisual works produced from technological media such as YouTube, for example, is the large number of reuploader accounts which can be categorized as pirating or rebroadcasting content that has economic rights on YouTube without the permission of the content owner. The reuploader account itself is a YouTube account that re-downloads or re-broadcasts content from the original account. Reuploader accounts are not only found on YouTube, on Instagram social media there are also many reuploader accounts or what are called regram accounts where there are lots of posts from Instagram account owners who have quite a lot of followers. Uploaded or re-downloaded anonymous accounts to gain economic rights through sponsorship or

advertising. Many content creators complain about copyright issues related to YouTube and Instagram. This occurs because the Copyright Law itself does not cover audiovisual works via social media. Social media itself is an internet medium where users can easily participate, share and create content. The Copyright Law itself currently only regulates broadcasting institutions.

METHOD

This research uses normative juridical research and the nature of this thesis's research method is descriptive analysis, namely research that describes, examines, explains and analyzes a legal regulation, in this case related to the Comparative Law of Copyright Protection for AudioVisual Works in Indonesia Based on the Beijing Treaty, Source The legal materials used in this research are secondary data which is data obtained from official documents, books or any form of research related to research objects and research results in the form of reports, journals, theses, dissertations and statutory regulations. . The data analysis technique used is qualitative data analysis, namely a research procedure that produces analytical descriptive data, namely by collecting materials and data as well as applicable regulations and legislation which are then analyzed using logical legal thinking.

RESULTS AND DISCUSSION

The current regulation of copyright as a type of Intellectual Property Rights cannot be separated from the consequences of Indonesia following the trade agreement in the Uruguay Round. The agreement was signed on April 15 1994 which included the formation of the world trade organization or WTO (World Trade Organization) as a replacement for GATT (General Agreement on Tariffs and Trade). (Kholis Rhosiah, 2015) Indonesia, as one of the countries participating in this agreement, has ratified the results of the Uruguay Round by enacting Law Number 7 of 1994 concerning Ratification of the Establishment of the World Trade Organization. Through this ratification, Indonesia must adapt every legal regulation in the field of trade to the principles contained in the Ratification of the Establishment of the World Trade Organization The development of information and technology cannot be stopped and has changed and influenced all aspects of people's lives. It is also one of the factors that influences aspects of people's creativity. Currently, many creative works are created by the public through or using technology, the creative process through or using information and technology means produces creative works, including technological discoveries, business and trade concepts through technology, to creative works in the form of entertainment in audiovisual form. Technological developments, one of which has produced many social media such as Facebook, Twitter, Instagram, Line, etc. and entertainment media through online applications such as YouTube, Netflix, Viu, Joox, and so on, have replaced mainstream media such as television, radio. and others. In its development, social media and online application-based entertainment media have created many creative works which in their development have resulted in many economic rights.

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The Beijing Treaty on Audiovisual Performances was adopted by the Diplomatic Conference on the Protection of Audiovisual Performances, which took place in Beijing from 20 to 26 June 2012. The Beijing Treaty itself modernizes and updates protections in the digital era for singers, musicians, dancers, and other actors and performers or instruments who engaging in audiovisual performances is contained in the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations of 1961. This update for the digital age complements the provisions in the WIPO Performances and Phonograms Treaty, which updates protection for performers and producers of sound recordings. Included in the Beijing Agreement. (Silke von Lewinsky, 2015)

The Beijing Treaty itself covers performances by performers or parties related to the performance of AudioVisual works that are broadcast, distributed or created by various digital and electronic media such as films, Vlogs, Video Streaming, Performances on Television and also protection for musicians when their musical performances are recorded on DVD or other electronic media or other audiovisual platforms such as current digital media platforms such as Joox, Spotify and other platforms. The Beijing Agreement grants economic rights to actors in permanent and non-permanent performances, as well as certain moral rights.

The Beijing Treaty itself should address the concerns of content creators throughout the world, especially in Indonesia, regarding the protection of AudioVisual Works. The rapid development of technology has also resulted in the rapid growth of users of electronic and digital media which has made people start to abandon conventional media such as television and radio in seeking and enjoying entertainment media in the form of AudioVisual Works according to Fibriyani Elastria, Head of Consumer Marketing Google Indonesia from From 2017 to 2019, Indonesia has approximately 100 (one hundred) Gold Creators, gold creators are YouTubers or vloggers who have subscribers or subscribers in the region of one million subscribers. This is an increase where in 2017 Indonesia only had around 17 Gold Creators. Meanwhile, according to the Tempo Institute itself, active users of YouTube and other social media in Indonesia are around 80% of the total population in Indonesia. Apart from that, according to the Tempo Institute, currently the number of users of streaming media platforms such as Netflix, Viu and Joox has reached more than one million subscribers. or paid. (Tempo Institute, 2020)

The high level of users of electronic media or digital media in Indonesia is also driven by the government's campaign to improve the creative and digital economy industry. However, this is not supported by the legal instruments provided by the government regarding the protection of AudioVisual works on platforms in electronic media and digital media. This has been complained about by several content creators such as Pandji Pragiwaksono who complained that his content is often reuploaded and There is no legal mechanism that can be used to protect copyrighted works

One form of protection for AudioVisual works is the protection of AudioVisual works in the field of film. In this regard, films or cinematography are included in the

type of IPR which is protected, especially copyright, as regulated in Article 40 letter m of Law Number 28 of 2014 concerning Copyright, hereinafter referred to as UUHC. 2014. In the 2014 UUHC regulatory system there are copyright protection subjects which consist of:

- a. Film Creator In this case, a Film Creator is a person or several people who individually or jointly produce a unique and personal songwriting work (in accordance with the general definition of Creator in Article 1 number 2 UUHC 2014).
- b. Film Copyright Holder In this case, in the general definition in Article 1 number 4 UUHC 2014 and specifically relating to film copyright, namely the Film Creator as the Copyright owner, then there are also parties or people who legally receive the rights from Film Creator (which is meant is the Film Producer in receiving the Film Creator's right to create and reproduce the film work of the Film Creator), as well as other parties or third parties who further receive the rights of the party whose rights were previously received legally (which is meant is an actor or actress as a person or party who receives the rights from the Film Producer to act in a Film from the Film Creator). In this case, film copyright is not only given to the creator of the film, but is also given to parties involved in producing a song work into a film copyright work that is enjoyed by the public which is referred to as a related right that is related to or adjacent to copyright.

So the exclusive rights owned by the creator are important because they related

to moral rights, economic rights and related rights in order to implement copyright protection.

Violations of copyright and performance rights from films that are currently widespread include illegal uploading of films to social media or illegal dissemination through certain websites which harm the film creator and/or the rights holder of the film. The Netflix media platform also complained about the government's lack of commitment to eradicating piracy through reuploads on illegal film streaming sites, making Netflix object to being taxed by the Indonesian government because legal regulations were considered unclear and film piracy through illegal streaming sites was still rampant without any action that has a significant effect taken by the government. Apart from that, Joko Anwar, as a film director in Indonesia, also complained about illegal film streaming sites that are mushrooming in Indonesia. (antaranews, 2020)

Currently the government does not have a special mechanism or regulations related to the protection and registration of digital or electronic AudioVisual Works. So recognition of the moral rights and economic rights of content creators is currently less protected. The same thing also happens to streaming media platforms such as Netflix where protection for streaming media such as Netflix is less protected because the Copyright Law only touches mainstream media such as television and subscription television and does not touch streaming media platforms.

Protection for films is currently only limited to being protected by the Copyright Law. When illegal distribution occurs, especially through social media or websites based abroad, the Beijing Treaty can be a solution in upholding the protection of the moral and economic rights of film industry players. This happens because The government does not have a mechanism for managing digital copyright. The void or lack of

protection for the protection of AudioVisual works through electronic media was then answered with the presence of the Beijing Treaty as an international legal regulation for the protection of performers of AudioVisual works which has been ratified by several countries, including Indonesia. The current Copyright Law still does not fully protect AudioVisual works that are broadcast via electronic media. This can be seen in Article 14 of the Copyright Law which does not yet touch works, especially AudioVisual Works that are created, displayed or broadcast via technological means, in this case electronic media. So adjustments are needed to technological developments which also develop new types of intellectual property, in this case AudioVisual Works. The ratification and entry into force of the Beijing Treaty shows that a multilateral norm-setting system such as that embodied by WIPO can work well to provide important new protections for creators and artists. In addition, the Beijing Treaty will have a real positive impact on all WIPO Member States, including developing and developed countries. The benefits to the country and its performers will occur in a number of areas, including from the standpoint of economic development, enhancing the status of audiovisual performers, and cultural diversity. The benefits of the Beijing Treaty include: (Robert J. Congleton and Sharon Q. Yang, 2017)

1. Economic development

The Beijing Treaty obliges Parties to provide full protection within their territories to rights holders who are nationals of the other Party, thereby ensuring that local producers and performers enjoy economic rewards when their films, TV series and audiovisual products are screened or made available overseas. The Treaty will contribute to safeguarding the rights of performers against the unauthorized use of their performances in audiovisual media, such as television, film and video. In an era of increasingly widespread audiovisual production as well as audiovisual images in music, digital market consumption has gone beyond open TV broadcasts to pay TV channels, DVDs and most recently the Internet, including the mobile environment. Protection of audiovisual performances will extend to all developing audiovisual markets. The Beijing Treaty will strengthen and if necessary help to consolidate local audiovisual industries as they join the international protection system. Additionally, the audiovisual industry is labor intensive, employing scores of performers, technicians, musicians, and other creators. Audiovisual content is also known as a powerful means of promoting locally made goods and services, such as cars, food and drink, clothing and tourism, and is therefore a perfect companion for economic development. As the local industry grows and has the resources to produce more content, local consumers will benefit from increasing the range, diversity and quality of local audiovisual choices. The Beijing Treaty will encourage increased investment, by encouraging effective and well-enforced copyright through related rights laws, which in turn will be conducive to the development of a balanced framework for international exchange and access to foreign markets. By strengthening the pillars of the audiovisual industry. The Beijing Treaty will stimulate various sources of investment in local production. The Beijing Treaty, together with the WIPO Internet Treaty, lays out the basic tools for the balanced, safe and effective distribution of audiovisual content over the Internet. The copyright industry is a fundamental element of the knowledge economy, which in turn is a key driver for growth and development in times of economic instability. The Beijing Treaty will enhance the role of the Internet as a leading channel for distributing audiovisual content, thereby advancing broadband development and

information and technology innovation in areas such as digital service platforms, content applications, and transmission standards and technologies.

2. Improve the status of audiovisual players

By providing incentives and compensation related to the international use of AudioVisual performances the Beijing Treaty will strengthen players' positions in the audiovisual industry. Performers of audiovisual works are artists and cultural workers. The Beijing Treaty will contribute to raising the professional status of actors and other performers and improving their working conditions. Additionally, the development of performer rights could lead to the introduction or consolidation of performer organizations, as well as producers, who are their natural partners in exercising rights to exploit films and other audiovisual content. The development of these representative organizations will facilitate a more conducive environment for social dialogue and interaction between artists and producers, which will have the overall effect of strengthening the cinematography and audiovisual sectors.

3. Protection of culture, folklore and cultural diversity

Apart from being an art form in itself, film is an excellent means for the expression of creativity and other cultural identities. Audiovisual performances can bring literary and musical works from a culture closer to the hearts and minds of audiences in a very effective way. The dimension of audiovisual performances as carriers and multipliers of other creative expressions not only has tremendous economic significance but is also highly relevant for advancing cultural diversity. In the same context, the Beijing Treaty contributes to the protection of traditional cultural expressions and national folklore, which have been the subject of scrutiny in various WIPO forums, including the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore or Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) As clearly stated in the Beijing Treaty, performers including actors and singers who interpret folklore expressions have the same rights as performers of other AudioVisual works

The benefits obtained from the ratification of the Beijing Treaty itself can be used as reasons for the urgency of applying or implementing the Beijing Treaty in the legal system in Indonesia. Through Presidential Regulation no. 20 of 2020 concerning Ratification of the Beijing Treaty on Audiovisual Performances Indonesia itself has ratified the Beijing treaty and Indonesia is the 30th country to adopt the Beijing Treaty in protecting copyright and then Indonesia has submitted the instrument of ratification of the treaty to the Director General of WIPO on January 28 2020 in Geneva, Switzerland Article 26 of the Beijing Treaty provides that "this treaty shall enter into force three months after a party fulfilling the requirements referred to in Article 23 has submitted its instrument of ratification or accession. So from this arrangement it can be seen that after three months the treaty was handed over, the Beijing Treaty is *mutatis mutandis* also binding and valid in Indonesia. So, with the enactment of the Beijing Treaty, of course audiovisual performers are expected to have a sense of security, comfort and ownership. Equal rights with other creators. In addition, the state is also expected to be able to take legal action against copyright violations committed by third parties in electronic media regarding the rights owned by performers and increase economic income through the creative industry as per the government. is currently intensively supporting the creative industry through the

current digital-based economy.

The implementation of the Beijing Treaty is also considered to be insufficient in protecting performers of AudioVisual works via electronic media. If the ratification is only an arrangement on paper without real implementation, even though currently the Indonesian government has ratified the Beijing Treaty, no real implementation arrangements have been found regarding the registration mechanism for AudioVisual Works broadcast via electronic media or digital media. The recognition of AudioVisual works via electronic media by the government means that the rights of AudioVisual performers are currently still not protected. Currently, actors of AudioVisual Works cannot do much when their work is displayed or claimed unilaterally because there are no real implementing regulations regarding the protection of AudioVisual Works through electronic media. For example, in the case of a calon sarjana YouTube account that takes a lot of works or content from the work of AudioVisual vloggers or other YouTubers without permission or even chops up other people's content without permission. The YouTube account only received freezing sanctions from YouTube itself without any firm action from the government or law enforcement officials. Not to mention related to illegal film streaming sites whose presence is currently very easy to access but there is no firm action or arrest as part of law enforcement for owners of illegal film streaming sites. It is hoped that the birth of the Beijing Treaty will not only be used as a basis for protecting the rights of performers of AudioVisual performances, especially those broadcast via electronic media, but it is also hoped that it will be used as a basis for law enforcement for actors who violate the rights of owners or performers of AudioVisual works via electronic media. If this is realized, it will certainly stimulate domestic creativity and creative industries, especially digital creative industry players, because of protection and recognition from the government and internationally.

The Beijing Treaty provides protection for AudioVisual Works for participants in the Beijing Treaty with four types of economic rights for the performances of AudioVisual Works stipulated in the audiovisual fixation, including:

- 1) The right of reproduction is the right to permit the direct or indirect reproduction of a performance fixed in audiovisual fixation in any manner or form.
- 2) Distribution rights are the rights to permit the making available to the public of originals and copies of performances fixed in audiovisual fixation through sale or other transfer of ownership.
- 3) Rental rights are the right to authorize commercial rental to the public of originals and copies of performances fixed in audiovisual fixation.
- 4) The right to make available is the right to permit the provision to the public, by wire or wireless means, of any performance set out in an audiovisual fixation, in such a way that members of the public can access the fixed performance from a place and at a time individually chosen by them. This right includes, in particular, the creation of on-demand interactives available via the Internet

Regarding non-fixed AudioVisual Performances or live performances such as live streaming or live performances the Beijing Treaty provides three types of economic rights:

- 1) broadcasting rights except in cases of rebroadcasting
- 2) the right to communicate with the public unless the performance is a broadcast performance;

3) fixation rights.

The Beijing Treaty also gives moral rights to performers, namely the right to claim to be identified or known as a performer unless there is an agreement or agreement between the performer and the owner of the show to cover or not identify or obscure the performer or this is part of the performance or thing This is a condition of the performance and the right to refuse any distortion, mutilation or other modification that would be detrimental to the performer's reputation, taking into account the nature of the audiovisual fixation. (Chrissy Milanese, 2016)

The Treaty stipulates that performers have the right to permit broadcasts and communications to the public. their appearance remains in audiovisual fixation. However, the Parties may notify that instead of authorization rights they will establish the right to equal remuneration for the use of direct or indirect performances specified in audiovisual fixations for broadcasting or communication to the public. Each Party in the performance may limit or provide a clause or agreement in the Agreement between the performer and the owner of the AudioVisual Work to deny this right. In the event and to the extent of agreement by a Contracting Party, the other Party is permitted to refuse national treatment contrary to that of the Contracting Party. In the Beijing Treaty, what is meant by performers or Performers are "performers are actors, singers, musicians, dancers, and other persons who act, sing, deliver, claim, play in, interpret, or otherwise perform literary or artistic works or expressions of folklore AudioVisual Fixation is defined to mean the embodiment of moving images, whether or not accompanied by sounds or by the representations thereof, from which they can be perceived, reproduced or communicated through a device

The definition of performer or performer and Audiovisual Fixation itself can be concluded that the Beijing Treaty protects all performers of AudioVisual works without being limited by certain means or technology. In the context of AudioVisual performers via electronic media, the Beijing Treaty also provides protection which can be seen through the regulation of the definition of AudioVisual fixation where all moving images accompanied or not accompanied by sound if they can be communicated or can be transmitted on a device constitute an AudioVisual fixation. It can be stated that AudioVisual works through electronic media are a form of AudioVisual fixation because they are communicated or transmitted via electronic media devices so that they can be enjoyed by many people. The absence of restrictions on the definition of AudioVisual fixation and the absence of restrictions on the definition of device means that the Beijing Treaty can be used as a means of protecting AudioVisual works which develop in accordance with technological developments. AudioVisual Works that are broadcast or shown through digital content via electronic media or social media which are currently not yet accommodated by the Copyright Law itself through the Beijing Treaty receive recognition and protection regarding the rights relating to these works.

Regarding the transfer of rights, the Beijing Treaty provides that the Parties may stipulate in their national laws that once a performer agrees to the audiovisual fixation of a performance, the above-mentioned exclusive rights are transferred to the producer of the audiovisual fixation unless the agreement between the performer and the producer states otherwise. Regarding the agreement of the parties to the transfer of such rights, national laws or individual, collective or other agreements may give the performer the right to receive royalties or equivalent remuneration for each use of the performance, as regulated in the Treaty. (Desmond Osaretin Oriakhogba,,

2018) With regard to limitations and exceptions, Article 13 of the Beijing Treaty includes the so-called "three-step" test for determining limitations and exceptions, as set out in Article 9 paragraph 2 of the Berne Convention which later expanded its application to all rights. Regulations related to the Agreed Statement provide that the treaty stipulates that the Agreed Statement of Article 10 of the WIPO Copyright Treaty or WCT applies similarly to the Beijing Treaty, namely that the limitations and exceptions stipulated in national law in accordance with the Berne Convention can be extended to the digital environment. Contracting States can design new exceptions and limitations to suit the digital environment. Expansion of existing limitations and exceptions or creation of new ones is permitted if the conditions of the "three-step" test are met. (Christophe Geiger, 2013)

The Agreed Statement concerning the WIPO Copyright Treaty itself stipulates that the provisions of Article 10 of the WCT allow Parties to continue and appropriately expand the limitations and exceptions to the digital environment in their national laws that have been considered and acceptable under the Berne Convention. Likewise, these provisions should be understood to enable Parties to design appropriate new exceptions and limitations in the digital network environment. Based on these provisions, works in digital space have international recognition as works with copyright. So WIPO member countries are expected to be able to integrate copyright regulations that also accommodate works in the digital space. The Beijing Treaty stipulates that the protection period for AudioVisual Works is at least 50 years. The enjoyment and exercise of the rights provided for in the Treaty cannot be subject to any formalities. The Treaty obliges the Parties to provide legal remedies against circumvention of technological measures such as encryption used by performers in connection with the exercise of their rights and safeguards against deletion or alteration of information such as changes to certain data that identify or characterize performers, audiovisual fixations and performances performed on a work. Information and identification that characterizes a work is information necessary for management, for example, licensing, collection and distribution of royalties from these rights or can be referred to as rights management information. The Beijing Treaty Agreed Statement relates to the interaction between technological measures and the limitations and exceptions explained that nothing prevents a Party to a Contract or agreement concluded by the parties from adopting effective and necessary measures to ensure that the assignee can enjoy limitations and exceptions if technological measures have been applied to an audiovisual work and the assignee of the rights in the contract or agreement has legal protection against limitations and exceptions. The above effective and necessary steps may be necessary only if appropriate and effective measures have not been taken by the rights holder in connection with such performance to enable the beneficiary to enjoy the limitations and exceptions based on the national laws of the Parties to the Contract.

Without prejudice to the legal protection of an audiovisual work in which a performance is set, obligations regarding technological protection measures do not apply to performances that are not protected or are no longer protected by the national law giving effect to the Treaty. Contracting parties or agreements are required to provide protection under this Treaty for all AudioVisual performances existing at the time of entry into force of this Treaty and for all performances created after the entry into force of the Treaty for each country. A Party to the Treaty may declare that it will

not apply the provisions regarding some or all of the exclusive rights of reproduction, distribution, rental, providing permanent performances, and broadcasting and communication to the public with respect to performances that exist at the time of entry into force of this Treaty in each Party. The other Party may then reciprocally limit the exercise of these rights in its relations with that Party. The Beijing Treaty obliges each Party to adopt, in accordance with its legal system, the measures necessary to ensure the implementation of the Treaty. In particular, each Party to the Treaty must ensure that enforcement procedures are available under its law to enable effective action against any acts of violation of rights covered by the Agreement. Such actions should include prompt remedies to prevent violations as well as remedies that serve as a deterrent to further violations. The Treaty establishes an Assembly of member states whose main task is to deal with issues relating to the maintenance and development of the Treaty. The Assembly established by the Treaty may decide to accept other intergovernmental organizations to become parties to the Treaty, which the WIPO Secretariat then has administrative duties regarding the treaty. The instrument of ratification or accession must be deposited with the Director General of WIPO. The Beijing Treaty itself is open to WIPO and European Union member countries

The implementation of the Beijing Treaty is also considered to be insufficient in protecting the performance of AudioVisual works through electronic media. Upon ratification these are only arrangements on paper without real implementation although currently the Indonesian government has ratified the Beijing Treaty. No real implementation arrangements regarding the mechanism have been found. Registration of AudioVisual Works that are broadcast via electronic media or digital media. Lack or even no recognition of the works AudioVisual through electronic media by the government makes the rights of the AudioVisual performers currently still not protected. Currently performers of AudioVisual Works cannot do much when their work is on display or claimed unilaterally because there are no implementing regulations. Real matters related to the protection of AudioVisual Works through electronic media.

CONCLUSION

The Copyright Law does not yet provide full protection for AudioVisual Works, especially those broadcast or displayed through electronic media. The Copyright Law itself does not clearly regulate the rights of AudioVisual works and mechanisms for protection and law enforcement against violations of AudioVisual Works through electronic media. Protection of AudioVisual Works through existing legal instruments, especially in this case in Indonesia, is considered inadequate, so to address the concerns of those involved in AudioVisual Works broadcast via electronic media or digital media, the government adopted the Beijing Treaty through Presidential Regulation No. 20 of 2020 concerning Ratification of the Beijing Treaty on Audiovisual Performances. The implementation of the Beijing Treaty itself is currently urgent because there are no implementing regulations regarding mechanisms for recognizing and protecting rights to AudioVisual copyrighted works via electronic media.

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