

Research on the Civil Public Interest Litigation System for Personal Information Protection in China

Yansiqi Liu

Inner Mongolia Technical College of Mechanics & Electrics, Hohhot, Inner Mongolia autonomous Region, 010000, China

Abstract. At the level of legislative norms, Article 70 of the Personal Information Protection Law includes the infringement of personal information rights and interests of a certain scale and quantity into the scope of regulation, establish a special system for civil society to protect personal information, and endows personal information with corresponding civil public interest protection. Among them, according to the law content, civil public interest litigation prosecution subject by the people's procuratorate, part of the legal consumer organizations and the national net letter determine the organization, but only the procuratorial organ to determine the subject, the rest of the organization has not yet had a clear definition of standard and qualification scope, and between the prosecution subject priority has not yet specific provisions, the prosecution subject qualification and order is not clear, this must be clear and supplement the primary content. Second, the scope of litigation accepting cases fuzzy boundary, it comes down to the conditions of prosecution standard lack of unity, for the number of the victims of size and specific number interval not set the corresponding ladder standard, causing the condition of "many" specific connotation of meaning, so that the trial practice is difficult to present clear scope of accepting cases. In addition, personal information is characterized by a wide range of coverage, high difficulty in screening, and large individual differences in classification attributes. These unique attributes in judicial practice, how to accurately that personal information damage after the specific compensation amount become one of the problems need to be careful, how to ensure timely forensics, evidence collection, the whole process of legal behavior and ensure that the collected evidence has a strong force for another problem, and the plaintiff in the reality claims contain damages are often difficult to get real implement. Finally, for the jurisdiction of the case principle does not consider the particularity of public interest litigation, public interest litigation is a special form of litigation, plus personal information infringement in today's big data era in the background of the main media, more present a "more scattered" cross distribution pattern, cross-regional jurisdiction become "normalized" phenomenon, but the existing regional jurisdiction and level jurisdiction is not enough to achieve efficient target, running some cases will appear unreasonable. For the above problems, based on the reasons behind the mining phenomenon, based on the judicial practice and existing related cases, put forward the improvement of targeted Personal Information Protection in Civil Public Interest Litigation System, the main direction for the following content: first, clear prosecution subject qualification scope and build a clear standard, and based on the further sequence the priority between the subject. Second, we should explore the path to expand the scope of civil public interest litigation for personal information protection, and further clarify the identification standards of prosecution conditions. Third, clarify the basis for determining the amount of compensation, introduce the punitive compensation mechanism, and set up the applicable criteria of regional jurisdiction in line with the characteristics of civil public interest litigation of personal information protection. At the same time, improve the cooperation mechanism with relevant departments, effectively enhance the cooperation strength to help personal information protection.

Keywords: Personal information protection, civil public interest litigation, public interest, litigation request.

1. Introduction

At present, we are in the 'information age', the era is constantly developing, the technology is constantly improving, the network technology is developing at a high speed, and the network space is combined with the real space. Information resources have become a hot and competitive resource for everyone. First of all, mastering information resources and occupying the dominant position of

data resources can surpass other competitors. In this fierce competition for information resources, incidents that endanger personal information security often occur. Some companies collect personal information at will without the consent of the owner of personal information, and some companies even use personal information as an entry threshold. Identity information, itinerary information, and health information related to the personal safety of natural persons are at risk of being obtained. For example, some public websites have set preconditions. Visitors must register if they want to view the content of the website. They must fill in personal information such as name, contact information, ID number, and e-mail address. If the visitor does not register, they cannot view the content of the website.

All kinds of chaotic phenomena make us feel unprecedented concern about personal information security, and the issue of personal information protection has aroused widespread concern in the whole society. The leakage of personal information is gradually being eroded by the huge benefits brought about by the era of big data, which also makes the application of big data gradually in trouble. With the development of big data analysis technology and mobile Internet technology, there are more and more violations of citizens' privacy, which poses a serious threat to personal information security. From the perspective of society, group tort is the basic social contradiction brought about by the rapid development of science and technology and the rapid development of information technology. Due to the light degree of individual damage, the lack of ability to collect evidence and the high cost of litigation, the enthusiasm of individuals to seek private relief is weakened. Therefore, it is necessary to establish a suitable mechanism to deal with such disputes, and establish a civil public interest litigation system for personal information protection under the current legal system in China. By establishing a collective litigation system, we can allocate social resources more efficiently, so as to ensure that unspecified victims in society get more equitable relief. This paper takes the maintenance of the public interest of personal information as the core goal, from the perspective of practical application, analyzes the existing cases of legislation and civil public interest litigation of personal information, and finds new situations and problems through analysis, including the qualification of the prosecution subject and its priority order, the scope of the case, the principle of jurisdiction, the claim of litigation, and punitive damages. It provides valuable reference for the innovation of the system and the improvement of the law.

2. Theoretical Interpretation

2.1. The Concept of Civil Public Interest Litigation

Public interest litigation originated in ancient Rome. At that time, the law distinguished private interest litigation from public interest litigation. Private interest litigation is to protect personal legal interests, and public interest litigation is to protect social public interests. Article 58 of the Civil Procedure Law of the People's Republic of China stipulates: "For acts that damage the public interest, such as polluting the environment and infringing the legitimate rights and interests of many consumers, organs and relevant organizations prescribed by law may bring a lawsuit to the people's court." The purpose of civil public interest litigation is to safeguard the public interest, covering a wider range, involving a larger number of people, involving the social level and the national level. The national level is the national interest, and the social level is the rights and interests of non-specific groups in society.

2.2. The Concept of Personal Information Protection Civil Public Interest Litigation

The public interest litigation system of personal information protection refers to the public interest litigation system initiated by relevant public interest organizations when personal information processors violate national laws and regulations and infringe on the rights and interests of many personal information. The personal information protection law defines the concept of personal information processor, including individuals and other organizations, which is characterized by the dominance of independent consciousness.

3. The Operation Status of Civil Public Interest Litigation System for Personal Information Protection in China

3.1. The Distribution of Burden of Proof is Reasonable

At present, there is no clear attribution of the burden of proof of causality in China's legislation, which leads to various ruling results in judicial practice. Therefore, it should be analyzed according to the specific case to achieve the purpose of protecting citizens' personal information security. Although China's evidence provisions have deleted the inversion of the burden of proof, this does not mean that it is completely abolished. Due to the particularity of individual infringement cases, the inversion of the burden of proof should be adopted. In order to protect the equal litigation rights of the parties, the infringer with greater advantages should bear more burden of proof.

3.2. The Number of Claims for Apology is the Most

In the civil public interest litigation of personal information protection, the most common request of the parties is to apologize. The form of apology is a written apology letter, which is published on the public platform, and the content is to express apology for its improper behavior. Considering the factors of social concept, it is a shameful act for Chinese people to apologize to others in public in their traditional thinking and cognition. This is why many people prefer to pay fines rather than apologize.

4. The Problems Existing in the Civil Public Interest Litigation System of Personal Information Protection in China

4.1. The Application of Jurisdiction Rules

When the same claim is submitted to more than two people's courts, the court that files the case first has jurisdiction, and the court that files the case later may not file the case repeatedly. However, there are no specific provisions on civil public interest litigation cases of personal information protection. At present, the victims of personal information infringement cases are scattered and widely distributed. Because it involves multiple regions, it is difficult for the competent court to collect evidence, which brings trouble to the court accepting the case and is not conducive to protecting the legitimate rights and interests of the victim.

4.2. Ineffective Prevention of Damage

The punitive damages system is mainly applicable to three situations, product problems and consumer fraud, serious pollution of the ecological environment, and infringement of intellectual property rights. There is no corresponding provision for the civil public interest litigation of personal information protection. For the behavior of damaging many personal information, a punitive compensation mechanism should be introduced to comprehensively consider the subjective viciousness of the infringer, the objective illegal facts and the degree of harm caused.

5. Suggestions for Improving The Civil Public Interest Litigation System of Personal Information Protection in China

5.1. Flexible Application of Jurisdiction Rules

For cases with a large amount of litigation and a large number of people involved, the trial process of these cases is usually very complicated. They can only be tried in ordinary procedures and should be under the jurisdiction of the intermediate people's court. For cases involving a small amount of money and a small number of people involved, summary procedures can be applied, generally under the jurisdiction of grassroots courts. We should build a mutual assistance and cooperation mechanism

of the judicial system, actively give full play to the advantages of Internet technology, and build a unified online filing platform, so that courts can check the progress of cases with each other.

5.2. Establish Punitive Damages System

Punitive damages can fully consider the subjective viciousness of the infringer and the severity of the infringement damage results. Cases that affect the bad must be severely punished. Therefore, a punitive damages system must be introduced to increase the punishment of the infringer. At present, only relying on the 'filling principle' to compensate the actual damage of the victim can not effectively curb the violation of personal information. In order to prevent the recurrence of similar cases, it is necessary to increase punitive damages and increase the cost of violation. Produce a deterrent effect.

6. Conclusion

Through detailed explanation, this paper expounds the theoretical basis of the civil public interest litigation system of personal information protection. By analyzing some system gaps existing in the current civil public interest civil litigation of personal information protection in China, this paper studies a large number of cases to analyze the operation status of the system, analyzes and summarizes the advantages and disadvantages of the system, and puts forward targeted suggestions for improvement.

References

- [1] Yu Z, Hexiao Y, Haoyun D. The Protection for Personal Information Based on IoT Network Management and Data Sharing in Big Data Era [J]. *Journal of environmental and public health*, 2022, 20225143396-5143396.
- [2] Bo G, Jun S, Bochun W. Personal Information Protection in Government Data Openness Using Decision Tree Model [J]. *Journal of Global Information Management (JGIM)*, 2023, 31(9):1-23.
- [3] Daoxin Y, Xiaojie L, Ruishuang L, et al. China's Personal Information Protection Law [J]. *BMJ (Clinical research ed.)*, 2022, 379(8358): e072619-e072619.
- [4] Lin Y, Shen Z, Teng X. Review on Data Sharing in Smart City Planning Based on Mobile Phone Signaling Big Data: Regular Research Article [J]. *International Review for Spatial Planning and Sustainable Development*, 2021, 9(2):76-93.
- [5] Arlene Z. Personal data protection in the credit-scoring industry of China [J]. *Journal of Data Protection Privacy*, 2021, 4(2):158-169.
- [6] Li Q, Jiang T, Fan X. Examining Sensitive Personal Information Protection in China: Framework, Obstacles, and Solutions [J]. *Information Culture*, 2023, 58(3):247-273.
- [7] Bart Custers, M. Sears A, Francien Dechesne, et al. *EU Personal Data Protection in Policy and Practice* [M]. T. M. C. Asser Press, The Hague: DOI:10.1007/978-94-6265-282-8.