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Addition of an Independent Injunction Procedure to the Codification of the Code of Civil Procedure

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Abstract: This paper discusses the establishment of an independent injunction procedure in the codification of civil procedure law. Civil procedure law is an important guarantee for the effective implementation of the substantive law civil code, so the codification of civil procedure law is an important way to build a legal system, promote the rule of law in civil procedure, and improve the level of the rule of law. However, in response to the infringement of personality rights, the civil code provides for a system of preventive claims, the traditional civil procedure cannot effectively meet the needs of personality rights protection, and behavioral preservation procedures cannot meet the urgent need for right holders to immediately stop the infringement, to restore the rights of the original state of the demand for the establishment of an independent injunction procedure to deal with. Constructing an independent injunction procedure, should be based on the principle of procedural proportionality and the generalized procedural theory, combined with the views of the academic community and practical experience, to ensure that the injunction procedure is fast and effective.

Keywords: Codification of the Code of Civil Procedure; Independent Injunction Procedure; Preventive Legal Regime; Personality Rights Injunction.

1. Raising Issues

The codification of the Civil Code has advanced the systematization of civil law, and the formulation and implementation of the Civil Code have opened up a new frontier for the rule of law in the field of private law in China. As the substantive law of the civil code if you want to effectively implement it, must be inseparable from the assistance of civil procedure law, civil procedure law is the full implementation of the civil code of protection, so with the substantive law of the civil code corresponding to the procedural law of the civil procedure law has sufficient reason to promote the codification, and as the theoretical basis, the theory of binding civil procedure law is weaker, the codification of its code of requirements compared to the codification of the civil code is more urgent.

At present, Internet infringement of personality rights incidents occurs frequently and often lead to more serious damage results, such as the "pink hair girl incident", "Liu Xuezhou looking for the relative incident", "pipe live suicide incident " etc. In response to the demand of society for the prevention of personality rights infringement, the Civil Code has further improved the system of defensive claims, such as Article 997 of the Civil Code stipulates that: "If a civil subject has evidence proving that the perpetrator is committing or is about to violate his personality right, and that failure to stop the violation in time will cause his lawful interests to suffer irreparable damage, he shall be entitled to a right to have his legitimate rights and interests protected. Suffer irreparable damage, has the right to apply to the people's court by the law to take measures to order the perpetrator to stop the act in question". In the traditional system of civil procedure, preventive defense measures, such as preservation measures, often do not effectively meet the requirements for personality rights, so it has become extremely difficult to effectively implement these provisions.

A search of judicial practice in the application of personality rights through the Judicial Documents Website reveals that there are only a handful of relevant judicial documents on the hovering and hesitation of Article 997 of the Civil Code in judicial practice. Due to the interpretation of the National People's Congress Legal Work Committee series can be seen that its legislative goal is to point to the Civil Code article 997 of the current civil procedure law article 104 of the pre-litigation behavioral preservation, while in the judicial understanding of the supreme people's court understanding and application of the series of special injunction procedures to consider responding to the civil code article 997 of the goal of the protection of personality rights. It can be seen that the legislative purpose and the judicial application of a huge difference, the academic community on the Civil Code Article 997 of the procedural response to the preservation of pre-litigation behavior, non-litigation procedures, injunction procedures, slightly program said different options. [1] Since the subsidiary nature of the preservation procedure is opposed to the independence of the personality right injunction, it is obvious that they are not the same procedure. In addition, ordinary litigation procedures do not meet the urgency requirements of personality rights injunctions. The non-litigation procedure is characterized by the non-resolution of disputes, which contradicts the contested action feature of the injunction procedure. The theory of staggered application of litigation and non-litigation procedure jurisprudence cannot provide theoretical support for the construction of the injunction procedure. [2] The current procedure for civil rights for the whole process of legal protection of the lack of personality rights cannot meet the needs of the injunction, the construction of an independent personality rights injunction procedure is of practical significance. The emergence of personality rights injunction has caused the academic community to the injunction procedure through extensive discussion and research. The setting of the injunction procedure has an important and indispensable position in the process of promoting the codification of civil procedure law. The design and provisions of this procedure, for the protection and maintenance of the

personality rights and interests of citizens and organizations, play a vital role, but also ensure legal justice and social stability of an important link. Therefore, in improving the code of civil procedure law, it is necessary to pay full attention to the setting of the injunction procedure to ensure its reasonableness, fairness, and applicability, to meet social development and people's changing legal needs.

Currently, China has established injunctions in the fields of intellectual property, maritime affairs, and anti-domestic violence. In the field of intellectual property protection, based on the Civil Procedure Law, in 2018, the Supreme People's Court issued Several Provisions on the Application of Law to the Trial of Cases of Acts of Preservation in Intellectual Property Disputes [3] to address the relevant legal issues, and to refine the procedural rules for stopping acts of infringement of intellectual property rights before the filing of a lawsuit. For what some scholars call the first case of a pre-litigation injunction, "Yang Jikang (pen name Yang Jiang) and China Trade Shengjia International Auction Co. And Li Guoqiang Pre-litigation Injunction Case" [4], it can be seen that perhaps because of the similarity of the efficacy of pre-litigation cessation of infringement and injunction system, some scholars refer to the ruling of pre-litigation cessation of infringement of intellectual property rights behavior as "pre-suit injunction", at the same time, "the supreme people's court gazette" [5] for the case of pre-suit to stop the infringement of the ruling of the supreme people's court also used the name of the injunction. Intellectual property rights pre-suit injunction civil rights preventive relief played a positive role, but also for the construction of preventive relief way to provide references. In the field of maritime affairs, has implemented the maritime injunction. According to the provisions of Article 51 of the Maritime Litigation Special Procedure Law, maritime injunction refers to the mandatory measures that the maritime court orders the requested person to act or refrain from acting based on the application of the maritime claimant to prevent the infringement of his legitimate rights and interests. [6] In the field of anti-domestic violence personal safety protection order, anti-domestic violence law combined with a foreign civil protection order system, and summarized the people's courts in some areas of personal safety protection pilot experience, and finally established the personal safety protection order system. Article 23 of the Law on Combating Domestic Violence stipulates that where someone applies to a people's court for a personal safety protection order because he or she has been subjected to domestic violence or is in real danger of being subjected to domestic violence, the people's court shall accept the application. If the person concerned is unable to apply for a personal safety protection order for reasons of coercion or intimidation, his or her close relatives, public security organs, the Women's Federation, residents' committees, villagers' committees, or relief and management organizations may apply on his or her behalf.

According to the separate law and special law set up by the prohibition of the existence of the split, along with the relevant judicial interpretations continue to introduce, the above procedural norms more and more refined, and to reflect its characteristics and accommodate more normative content, China also appeared similar to the situation in Japan, that is, the existing norms have gradually separated from the civil procedure law, and gradually grow the tendency of the separate law. The significance of the civil procedure code is to make full use of the procedures and norms between the system of unity and synergy, to complete the litigation process or with the non-litigation process for the balanced allocation of judicial resources. Systemic civil procedure law, but also manifested in a variety of civil litigation systems of coordination, systematic, and self-consistent systems. [7]

2. Justification

2.1. Practical Needs: Preservation Procedures do not Meet the Need for Preventive Relief

China's civil procedure law has constructed a variety of emergency relief channels such as the preservation system, the present to execute the system, the summary speedy trial procedure, non-litigation procedures, etc., however, in practice, the entity relief and procedural relief are often detached from each other, because litigation procedures and non-litigation procedures are relative and the current academic understanding of the relationship between the either-or. Therefore, the current emergency relief cannot meet the urgent needs, preventive needs and the claims of this case are not the same, there are no appropriate procedures, habeas corpus and personality rights infringement injunction decoupled from the litigation process, are out of the need for preventive relief.

Our preservation system covers property preservation, prior enforcement, and behavioral preservation. Similar to the injunction procedure is behavioral preservation, which means that when the applicant's lawful rights and interests may suffer irreparable damage due to the respondent's behavior or other reasons, or when it may result in the judgment being unenforceable or difficult to enforce, the applicant may apply to the court to prohibit a certain behavior or to require the adoption of a certain behavioral measure. Injunction and behavioral preservation in the function of both have the role of preventing the interests of the people from being damaged or further damaged, and both are the court orders the relevant people take or not to take a certain behavior, but the difference between the two is still very obvious, and there is no substitute for the two.

The most obvious characteristic of a behavioral preserving decision compared with an injunction is its dependence. As a system dependent on litigation, the purpose of behavioral preservation is to temporarily stop or prevent the occurrence or continuation of the infringing act before the final decision of the litigation, to avoid irreparable losses suffered by the right holder. Its beginning and end are linked to the litigation process. In comparison, the injunction procedure has distinct independence and is not dependent on the litigation procedure. According to the relevant provisions of the habeas corpus can be known that the ban is set up to set up the characteristics of the litigation process is detached from the litigation process, it has become "not necessarily accompanied by the litigation process, can be independent of the civil procedure law of the behavior of the preservation of the outside of" the new legal system. [8] Absorption of habeas corpus set up personality rights infringement injunction in the civil code provisions, also set up to be detached from the litigation process, is a kind of litigation without relying on the judgment that can realize the protection of the rights of the special way of relief.

What is more obvious is that through the injunction procedure, it is possible to apply for requests that are different from those in the litigation procedure, for example, in family disputes, the litigants concerned can file a personal safety protection order against domestic violence and a divorce lawsuit before or during the litigation; In the field of

intellectual property rights, it is possible to file an injunction against infringing behaviors before or during the litigation, and to file a claim for compensation for damages during the litigation. In addition, according to the Civil Procedure Law, if the applicant fails to file a lawsuit or apply for arbitration within thirty days after the People's Court has taken preservation measures, the People's Court shall lift the preservation measures, and if the injunction procedure is applied to the preservation system, it will be suspected of forcing the litigants to litigate. This is particularly prominent in the practice of personal safety protection orders against domestic violence. [9]

More critically, the main function of behavioral preservation decisions and measures is the function of "maintaining the status quo" - although there are different standards and practices for determining the "status quo" [10]. In the case of an injunction against infringement of personality rights, for example, the purpose of applying for such an injunction is to obtain a quick order to stop the infringement from occurring or continuing using a simple litigation procedure. The applicant is bound to apply for an injunction to solve the infringement, then corresponding to the injunction it wants to apply for the injunction is a final injunction, as for the final court decision is a final injunction or temporary injunction, through the judge's discretion to come up with the answer. It can be seen that the function of the injunction is more in the power to restore the damaged state and prevent damage to the right, which is beyond the behavior of the preservation of the "status quo" category. As it relates to the issuance of a final injunction, so after the procedure must be the corresponding entity review, and the behavioral preservation as a subsidiary procedure of the litigation process has the characteristics of the case and purely procedural matters to the limit, and the injunction system cannot match the entity judgment. If the application of the behavioral preservation system of injunction procedures, it is necessary for the judge within forty-eight hours to complete the review of the entity elements, but also for the applicant to win the possibility of prejudgement [11], which exceeds the ability of the preservation system [12], at the same time too tight time constraints, the judge will let the more cautious application of injunction procedures, will inevitably limit the actual utilization of injunction procedures.

Through practical exploration and theoretical discussion, it can be seen that the civil procedure law of behavioral preservation procedures in the theoretical support and the supply of rules cannot meet the needs of the injunction system [13], the current behavioral preservation of the current application of preservation procedures for maritime injunctions, and intellectual property injunctions also exists on the system of non-adaptation, as a temporary relief procedure behavioral preservation fails to fully integrate maritime injunctions, intellectual property injunctions, habeas corpus, personality rights injunctions and other systems. Injunction, habeas corpus, personality right injunction, and other systems. The preservation procedure cannot fully satisfy the purpose and function of the injunction system, so the establishment of an independent injunction procedure has legitimacy and necessity.

2.2. Ongoing Trends in the Injunction Process

Due to China's injunction system growing, the newly developed injunction system (such as personality rights injunction, injunction) procedural application norms are lagging, procedural application of ambiguous, and other problems and existing injunction system (such as habeas corpus) also due to procedural invocation of the unclear and cannot be effectively applied [14]. For habeas corpus, the Supreme Court had a reply pointed out that "can be compared to special procedures for trial" [15]. This setup is unreasonable, first of all, "mutatis mutandis" and the basic principle of legal procedures, mutatis mutandis in the actual application of a greater arbitrary, and the application of justice is not complete supporting procedures. Secondly, compared to the object there is uncertainty, compared to special procedures for trial, and special procedures are rich in a variety of distinctive system designs, such as voter eligibility cases, judicial confirmation system, public notice procedures, etc., compared to the application can only be used as a temporary transition, essentially out of the litigation process of habeas corpus and personality rights injunction, in terms of procedural law has not yet with the matching of trial (c) Procedures.

After the appearance of the personality right infringement injunction, there is more exploration of the injunction system in judicial practice and theoretical discussion, for example, in the case of Shenzhen DJI Innovation Technology Co. v. Beijing Fermi Technology Co [16]. In the case of patent cases, it is the first case in the country to make a "first judgment + temporary injunction" decision, but also in the field of intellectual property rights on the exploration of non-prosecution injunctions, is to meet the needs of the right to quickly stop the infringement of the demand. For the injunction, due to the reality of the urgent need, in 2020 the Chinese courts issued five injunctions, and China issued an injunction by the EU to the WTO, one of the important reasons is that the Civil Procedure Law does not have the relevant provisions of the injunction, the EU believes that this is contrary to the "TRIPS Agreement" stipulated in the requirements of transparency we have not violated the relevant rules, but the Further improve the injunction system, its clear provisions are urgent. In recent years, China's academic and practical circles have believed that the establishment of the injunction system should occupy an overwhelming advantage [17]. In the field of environmental protection, relevant scholars have proposed to update the environmental protection injunction with the opportunity of the personality right infringement injunction, taking into account the irreversibility of environmental pollution and ecological damage, when faced with the possibility of serious harm to life and health, environmental safety and other situations, the need to quickly and timely preventive protection measures. However, the way to implement environmental protection injunctions through the behavioral preservation system suffers from the problems of high cost and low efficiency, and may not be able to meet the realistic needs of preemptive protection of the ecological environment in emergencies situations [18], the environmental protection injunction to the personality right infringement injunction, realize the decoupling from the litigation procedure. In addition to this, academics have also studied the injunction system of blocking website injunction [19], Internet intermediary service provider injunction [20], personal information right injunction [21], and standard essential patent injunction [22].

The above studies on the injunction system often involve issues such as the urgency of rights protection, the source of the applicant's right to request an injunction, and irreparable

damage. However, in reality, the lack of uniform guidelines for the prohibition of procedural norms, resulting in the existing prohibition of procedural norms is cumbersome and inconsistent. Therefore, there is an urgent need to clarify the procedures applicable to the new injunction system and to address the issue of the convergence of injunction procedures.

2.3. Precautionary Claims for Injunctions

Existing relief for defensive relief, this kind of relief cannot meet the requirements of the right to realize different claims and one of the purposes of the amendment of the civil code is to prevent the urgent or imminent infringement will causing irreparable damage if it is not stopped in time, the addition of article 997 is the improvement of China's relief system, which has triggered the attention of the academic community on the right of preventive claims and research. Preventive right of claim is suitable for urgent protection of civil procedures for the litigants to choose to use, civil procedure law must be for the existing substantive law that has been stipulated for the right of claim to provide a system of functional requirements of the relief procedures, this is also the state should bear the obligation of judicial protections [23].

There are two main characteristics of an absolute right of claim: it is not limited by time, and it does not require fault or the result of damage. As long as another person infringes on the rights of the right holder, regardless of fault or actual damage, the right holder has the right to request at any time to require the other side to take or give up certain behaviors. Whether it is a relative right or an absolute right, to perform its function or to restore its uninfringed integrity, it needs to be realized through the exercise of the right of request [24]. Property rights, intellectual property rights, and personality rights are all absolute claims, the protection of which is not limited by time and does not require proof of fault or actual damage caused by the infringer. The protection of such rights emphasizes more on the feelings of the person in authority about the right rather than the existence of intent or negligence on the part of the relative.

Thus, when their lawful rights and interests are infringed, based on the inherent role of the absolute right of claim, the right holders can choose the way to exercise their rights: Firstly, to carry out private remedies, directly to the infringer to file a desist request; Secondly, to file a relevant claim through the court, which has the right to ask for the judge's assistance and the court's assistance, and they can satisfy the remedies through the ordinary litigation procedures, and they can also make use of the simple and rapid way to satisfy the remedies. What the law needs to do is to set up the corresponding procedures, so that the rights holders can choose according to their own needs. As society develops and choices diversify, the choice between financial compensation and prompt cessation of the infringing behavior becomes increasingly urgent. As a specific means, injunctions can be expected to be applied to other areas of infringement. By comparing the scope of application of injunctions in common law, we can find that injunctions can be applied in all aspects of social life, which covers a wide range of areas, such as property rights, claims, torts, contracts, maritime, intellectual property rights, marriage, and family, etc. Injunctions can allow applicants to restore their rights, or to avoid being hindered, or, in some cases, can be used as a temporary relief, so that the litigants concerned can choose to apply for a resolution of the disputes and preserve their rights. As a means of timely elimination of infringement to restore rights, can effectively prevent the normal production and living order disrupted by long-term "lawsuits". At the same time, according to the specific practice to observe, in general, the court issued the injunction will usually be implemented immediately. This is also the special feature of the injunction, which accords with the purpose of the injunction system, that is, to take compulsory measures to provide relief in an emergency. The development of the law of civil procedure should be adapted to this change and a specialized, rapid, substantive, and procedural injunction procedure should be added [25].

3. Procedural Options for Injunctive Proceedings

3.1. Quasi-litigious Nature of Injunction Proceedings

Typical litigation proceedings have the following characteristics: contentious, adversarial, and public [26]. It is generally believed that the personality right injunction belongs to the substantive law rights and obligations disputes, and the dispute is different from the civil entity rights and obligations disputes, which is characterized by: Contestability, that is, the personality right injunction belongs to a kind of rights disposal behavior, which determines whether the person's interests in the civil entity rights and obligations relationship is infringing or the possibility of damage; Adversarial, that is, the personality right injunction needs the court to review the civil entity rights and obligations disputes in the substantive law; Publicity, that is, the personality right injunction needs to be disclosed to the society before making the litigation. Rights and obligations disputes in substantive law; publicity, i.e., personality rights injunction needs to be disclosed to the society before it is made. Therefore, personality right injunctions have the characteristics of typical litigation procedures in nature, so the procedural choice of personality right infringement injunctions should apply to litigation procedures.

In litigation proceedings, contestability is an essential feature and a criterion for determining whether a proceeding is a litigation proceeding. In the case of an application for an injunction for infringement of personality rights, two subjects with opposite interests and positions are involved, namely the personality right holder and the alleged infringer. The outcome of the adjudication of the injunction will have an impact on the important interests of both the applicant and the opposite side; if the injunction is not upheld, it will cause irreparable damage to the applicant's interests; while if the injunction is issued, it will severely restrict the freedom of the other side action. In addition, during the adjudication process, the judge will need to weigh the damages between the litigants, predict the impact on the relator, and compare the public interest. Thus, in injunction proceedings, not only must the litigants provide sufficient evidence to safeguard their rights and interests, but the judge, as the adjudicator, must also repeatedly weigh the rights and interests of the litigants. This is distinctly different from non-litigation cases, which do not involve disputes over rights and obligations.

The institution of injunctions is a proceeding from the point of view of comparative law, which is a substantive proceeding with final effect [27]. Even if the interlocutory injunction proceedings, in principle, should still take the trial of the trial of the trial of the trial, in emergencies, interlocutory injunctions in the interim injunction can be applied for ex

parte under strict conditions. The U.S. Federal Rules of Civil Procedure and the British Rules of Civil Procedure have clearly stipulated that a preliminary injunction shall not be issued without notifying the other side, and the preparatory injunction procedure requires that the plaintiff must first apply to the court, and then the court will review whether to grant the injunction. For example, U.S. Federal Rule of Civil Procedure 65(a)(1) provides that "[t] he court may grant a preparatory injunction only to notify the other side. Notice of the abuser's participation in the hearing is required when applying for a permanent protective order, and if the abuser does not receive notice of the hearing, he or she can refuse to enforce the order because a constitutionally fundamental lawsuit has been violated [28]. However, a temporary injunction can only be issued if there is sufficient evidence that the plaintiff will suffer irreparable harm and will not be revoked only if there is sufficient evidence to justify the necessity of the petitioner's ex parte application. Although there is no "quasi-judicial" attribute of the personality right injunction procedure in common law countries, the law still gives the procedure a "quasi-judicial" nature because the result of its substantive judgment is closely related to the substantive law. In this sense, the personality injunction procedure can also be regarded as a quasi-judicial procedure that requires special safeguards. The purpose of the personality right injunction procedure is to protect the interests of the applicant and avoid damaging the rights and interests of third litigants or the public interest. It therefore requires substantive rather than formal protection for the applicant. After the procedure is initiated, the court shall make a substantive ruling through a hearing and decision after both litigants have fully expressed their views. In the design of the procedure, it was crucial to provide the respondent with a range of protective measures. It is important to ensure that both litigants are afforded minimum procedural safeguards to ensure that the applicant's application for an injunction is accurately, timely, and smoothly communicated to the counterpart and that the counterpart is allowed to be formally or informally heard and to express its views. The Tribunal shall hear both litigants, check the evidence on both sides and make its decision based on a weighing of the interests of the litigants. In cases of urgency or where there is evidence that notice, summons, or service cannot be given, the court may examine the material provided by the applicant in writing only, but the relator shall be given a timely opportunity to be heard after the decision has been rendered.

3.2. Provisional and Final Nature of Injunction Proceedings

The injunction is a temporary and final form of relief, aiming at balancing the rights of litigants and the interests of the whole society. The procedure is designed to take timely measures to prevent or stop potential infringements ultimately resolve disputes and maintain social order and social harmony. The injunction system not only plays a good role in protecting the infringement of civil litigation, but also maintains the fairness and justice of civil litigation, and promotes the construction of the rule of law has a positive role in promoting.

The temporary nature of injunctive proceedings is reflected in several ways. First, injunction proceedings are usually characterized by urgency and prompt response. When there is an emergency or an urgent need to safeguard the rights and interests of the litigants, the court can make a temporary injunction within a relatively short time to prevent further damage. Secondly, the effect of the injunction procedure may be temporary, effecting only on the litigants to take specific actions, and effective within a certain time frame. Such temporary measures can provide the necessary protection to the litigants concerned while avoiding the problem of unduly restricting or jeopardizing the rights and interests of others. Finally, the injunction procedure is also flexible to a certain extent, as the court may adjust or revoke the injunction accordingly in the light of the development and changes in the case, to ensure the fairest and most reasonable outcome possible.

At the same time, injunctive proceedings are at the same time characterized by finality. First, injunctive proceedings are largely capable of resolving the core issues of a dispute or controversy, either by prohibiting certain conduct or by requiring the litigants to take specific measures to terminate the infringement or to remove the uncertainty involved in the dispute. Second, the quasi-litigious nature of injunctive proceedings and the construction procedures based on them allow for the transformation of a temporary injunction into a final decision or order to further resolve the dispute. Finally, the issuance and enforcement of injunctions are also subject to court review and supervision to ensure that the procedural requirements outlined in the law are met and that they are in by the principles of law and the values of justice.

In summary, the injunction procedure is both provisional and final, preventing or stopping infringement through mandatory measures and ultimately resolving disputes to maintain a balance between the rights and interests of the litigants and the public interest of society. Injunction procedure of both temporary and final nature brings many advantages and significance. First of all, the injunction procedure can quickly and effectively stop or curb infringement, prevent the occurrence of continuous damage, and protect the rights and interests of the litigants. Secondly, the injunction procedure can reduce the stress and loss of the litigants in the process of dispute, especially when it involves irreversible infringement, through the injunction can avoid or reduce unnecessary damage. In addition, the injunction procedure also helps to safeguard the public interest of society and protect the realization of the public interest. By prohibiting certain acts or requiring specific measures to be taken, the injunction procedure can prevent threats to social public order and public interests from illegal or improper acts.

3.3. Stepped Rights Protection Procedures

The adoption of different types of remedies and corresponding procedural arrangements is crucial to safeguarding the rights and interests of the litigants. In constructing a system for substantive relief claims, it is necessary to give full consideration to the finality of the decision and focus on guidance for future conduct rather than only on the consequences of real damage. In response to specific tort judgments, final substantive remedies, such as permanent injunctions or final injunctions, can be adopted, and such procedures are similar to simplified ordinary litigation procedures rather than the application of summary procedures [29]. In such a procedure, the litigants' right to argue needs to be ensured and strictly proved, and such a procedure needs to guarantee the litigants' right to argue and strictly proved. Secondly, for temporary substantive relief, interlocutory injunctions or temporary injunctions are available. This type of relief aims to protect the rights and interests of the litigants and prevent further damage while the

case is being processed. The corresponding procedure is similar to prior enforcement, requiring a hearing and the applicant to prove the application for an injunction freely. In addition, a temporary emergency injunction may be used as a procedural remedy under certain circumstances. The procedure is more similar to an amicus curiae procedure than with other types of remedies, and is more similar to a preservation regime, requiring only an ex parte application and a formal review for its implementation. This type of relief is suitable for emergencies where immediate action is required to protect the rights and interests of the litigants. Through the different types of remedies and corresponding procedural arrangements described above, the rights and interests of the litigants can be more effectively protected and the timely taking of necessary legal action ensured. Such an institutional structure is conducive to the promotion of a fair and efficient judicial and legal system that provides individuals with the necessary protection and relief mechanisms.

4. Conclusion

Through the injunction procedure, courts can take measures in urgent cases to prevent or stop conduct that may lead to irreparable harm. The independence and regularity of such procedures are essential to ensure the effectiveness and fairness of injunctions. Therefore, the necessity for the establishment of injunction procedures and their positioning in the system of trial procedures have been thoroughly considered and explored, to ensure their effective operation and rational application in judicial practice. According to the principle of procedural proportionality, due to the urgency of the injunction case, it is difficult to be properly realized through litigation procedures and non-litigation procedures. The injunction procedure provides another option for rights holders to defend their rights and gradually builds its dispute resolution mechanism in various fields. The newly added injunction procedures should set up temporary and final remedies in steps so that timely measures can be taken to protect rights and interests in urgent cases and finally resolve disputes. By integrating injunction procedures and adding these special procedures, the rights and interests of the people can be better protected and the further development of procedural law can be promoted.

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