

Original Paper

The Protection of Personal Information under the Civil Code in the Information Age

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Abstract

At present, we are in the information age, personal information has penetrated into all aspects of our lives, and affects our lives. However, with the development of the times, there are many problems in the protection of personal information, and the protection of personal information has increasingly become the focus of people's attention, and more and more people call for legal protection of personal information to prevent personal information leakage. The newly published Civil Code clearly states the legal protection measures for personal information, which is in line with the concerns of Chinese netizens. However, from the perspective of the new Civil Code, how to comprehensively and effectively protect personal information and thoroughly plan effective ways and means to protect the personal information of netizens still needs to be discussed in theory and practice.

Keywords

Civil Code, Protection of Personal Information

1. Basic Theories of Personal Information and the Right to Personal Information

1.1 The Concept of Personal Information

1.1.1 Connotation of Personal Information

1.1.1.1 Analysis of Different Views in the Academic Community

At present, there are two different views on the definition of "personal information" in academia, namely the definition of recognition and the definition of relevance. As the name suggests, identifiability is defined as the precise location of "personal information" in some way or form. For example, clothing, mailing address, email, etc. are used as identifiable definitions of personal information. The identifiability of personal information leads to the possibility of leakage of "personal information" in daily communication. The illegal and improper collection and use of natural persons' personal information will harm the legitimate and reasonable rights and interests of others'

personalities.

Unlike the definition of identity, there are a large number of definitions of relevance, both at work and in life, both physically and mentally. Insofar as a natural person can be successfully identified through these media, it can be called information about personal information.

Through the comparison of the above two information definitions, it can be seen that compared with the definition of relevance, the definition of identifiability can more accurately judge the information of natural persons, but the lack and comprehensiveness of the information. Using this definition ensures the legality and validity of personal information.

1.1.1.2 Definition of Personal Information in our Civil Code

The Civil Code of the People's Republic of China (hereinafter referred to Chinese as the Civil Code of China) for the first time clarifies the basic legal connotation and scope of application of personal information in China, and the second paragraph of Article 1034 of the Code clearly stipulates that the information is clearly described as follows:

The information recorded in different ways can be used alone or in combination with other information in order to identify basic personal information, including identity, date of birth, ID card, passport number, biometrics, address, telephone number, email address, health status, health insurance status, activity records, etc. As far as the expression of the Civil Code is concerned, it not only summarizes and lists personal information, clarifies the boundaries and scope of personal information, and allows people to have a full understanding and understanding of personal information, so as to enhance people's legal awareness and concept of the rule of law.

However, in the protection of privacy rights, personal information may compete with other rights at the same time, how to identify and process the right to privacy in law, in China's civil code has also made some relevant provisions, the third paragraph of article 1034 of the civil code clearly stipulates the protection of privacy and other personal information rights conflict with the processing methods and rules, then the privacy right is not clearly provided for in accordance with the privacy related provisions to protect the processing, It is not disposed of in accordance with the provisions on the protection of the right to information when required.

1.1.2 Characteristics of Personal Information

(1) The natural nature of personal information. Personal information is first and foremost information in the objective world, and must have the general characteristics of information. The natural attributes of personal information determine the legal attributes of personal information as the object of rights and the attributes of rights on it. The content of personal information is to identify a specific natural person, and identifiability is an important criterion for judging whether a certain information is personal information. The Civil Code of the People's Republic of China clearly stipulates that personal information is all kinds of information that can identify a specific natural person alone or in combination with other information.

(2) Personality attributes of personal information. Since personal information is information that can identify and mark the characteristics of a specific natural person, it is related to the individual evaluation of people and social identity, and has spiritual attributes. In this sense, personal information naturally characterizes the personality attributes of natural persons, which can explain why the personality rights and interests protected by traditional offline society, such as name, portrait, privacy, etc., are closely related to personal information. Despite the transformation of information recording and processing in the digital society, personal information still embodies the most basic freedoms and dignity of personality elements everywhere, and is placed in the Personality Rights Section of the Civil Code. However, personal information in the digital society has its own characteristics compared with other specific personality interests in the traditional offline society.

(3) Personal information naturally has property genes. In the digital society (especially the digital economy), the commercial value of personal information is highlighted, and businesses can use the data products formed by personal information to obtain huge commercial profits. Undoubtedly, technology is a transformative factor for personal information to produce economic value, but it is still an external cause, and the property gene naturally possessed by personal information is the internal cause of its commercial value. In the digital society, it can meet business needs and is controllable and scarce, with the possibility of becoming the object of legal property interests.

1.2 Right to Personal Information

1.2.1 Meaning of the Right to Personal Information

The right to personal information refers to the right to control personal information. Its rights include the right to make information decisions, the right to keep information confidential, the right to inquire about information, the right to correct information, the right to block information, the right to delete information and the right to claim compensation. The content of the civil legal relationship of personal information is mainly composed of the rights and obligations enjoyed by the civil subject of personal information. The Civil Code stipulates that individual informants enjoy the following rights:

(1) Right of access and right of reproduction. Article 1037 of the Civil Code clearly stipulates the personal rights of personal information holders, and enjoys the right of access and reproduction of personal information.

(2) Right to object and rectification. Article 1037 of the Civil Code provides individuals with the right to correct their own information in the event of an error, and may also raise their own objections and other measures to protect the accuracy of their information.

(3) Right to request erasure. The second paragraph of Article 1037 of the Civil Code provides that when a person with personal information discovers that his or her personal information has been unreasonably processed, the individual has the right to request that the processor promptly handle it and delete public information against the individual's will.

1.2.2 Personal Information Civil Subject Obligations

(1) Information processors' security obligations. Information has its own particularity, personal information is more in the process of use to form value, for information processors, it is more important to deal with the security of personal information, for which the security obligation cannot be avoided.

(2) Confidentiality obligations of relevant institutions and personnel. Article 1039 of China's Civil Code clearly stipulates that state organs, legally authorized organizations or institutions undertaking security administrative functions and their relevant staff shall be given strict confidentiality in accordance with law all relevant personal privacy and other relevant personal information of any natural person that needs to be fully known in the course of correctly performing their duties.

1.2.3 The Importance of Protecting the Rights to Personal Information

The degree of social informatization is getting higher and higher, which is inseparable from the support of personal information, but the security of personal information under big data technology is also in jeopardy. Failure to protect personal information can lead to serious consequences. All this shows the importance and necessity of protecting the rights and interests of personal information. In the digital era of life, the advent of the era of big data is quietly narrowing the distance between people, facilitating our communication and communication, while making us lose absolute control over our own property and information.

2. Provisions on the Protection of Personal Information in the New Civil Code

2.1 Principles and Conditions for Handling Personal Information in the Civil Code

2.1.1 Principles of Personal Information Processing

When handling personal information, certain principles shall be followed to avoid serious problems in the process of handling personal information. When processing personal information, in addition to following the corresponding principles, certain conditions should also be met, and specific problems should be analyzed on a case-by-case basis, so as to better protect personal information and make the protection and use of personal information harmonious and unified.

In China's Civil Code, the collection and processing of all kinds of personal information mainly stipulates what kind of legal provisions or codes should be followed first, and then guides how to legally, properly and necessarily collect and process all kinds of personal information on the basis of this provision.

2.1.2 Conditions for Processing Personal Information

The processing of personal information also sets conditions for it, preventing the unlimited expansion of the processing of personal information, and stipulates the relevant processing conditions in the Civil Code to regulate and effectively restrict the behavior of processors.

First of all, in principle, it is necessary to obtain the consent of the individual person who provides for the information, of course, the circumstances stipulated by laws and regulations are not included; Second, the processing information should be disclosed; Third, the purpose, method and scope of the

processing of information should be obvious, so that the information subject can be clear; Finally, if there is an agreement, it must be based on the agreement of both parties, and it must not violate the provisions of laws and regulations.

3. Problems in the Practice of Protecting the Right to Personal Information in Civil Law

3.1 Personal Information Holders do not have a Strong Sense of Self-protection

With the rapid development of modern science and technology, personal information subjects have not enhanced their awareness of self-protection in adapting to this development, do not pay attention to the security of their personal information, and have a lack of awareness of personal information leakage at will, which has caused some people to illegally buy and sell other people's information and earn illegal benefits from it. In all kinds of activities, individuals lack the awareness of self-preservation and management of their personal information, and scan codes, register personal information and other behaviors at will, which can easily lead to the leakage of other personal information and give criminals an opportunity. Even some units have a weak awareness of personal information security protection, resulting in many problems in other units, which leads to a serious consequence of personal information being leaked. This fully reflects the weak awareness of personal information subjects' protection, resulting in a situation of weak protection of personal information.

3.2 The National Laws and Regulations are not Perfect

With the process of socialist rule of law in China, people's legal awareness has been increasingly enhanced. However, the use of personal information is a new thing gradually produced with the development of our society and science and technology, and the occurrence of these new things will inevitably bring us some legal reform and progress, which requires that our laws must keep up with the development and progress of the times with the development of our society. Although some relevant laws and regulations have been formulated in the relevant fields of China at present, there are still some deficiencies in the legal protection measures for our personal information. This urgently requires the improvement and establishment of a legal system for personal information. Therefore, the introduction and implementation of the Personal Information Protection Law is very urgent and necessary. Legislation at the national level. At present, due to the lack of such a perfect law in China, there are still obvious deficiencies in the confidentiality of users' personal information from the perspective of the completeness of our law. At the same time, in other security fields, although there are many relevant security laws, regulations and rules, the special law for personal information security protection has not yet been officially promulgated or promulgated, and its content integrity is still obviously insufficient from the aspect of personal information security protection. In terms of personal information protection, its integrity is still insufficient.

3.3 Publicity and Education on Personal Information Protection are out of Place

With the development of network information technology, the use and protection of personal information is more important, which inevitably requires the state and society to have a comprehensive

understanding of the protection of personal information, and arouse the attention and attention of the majority of people to the protection of personal information. Protection is becoming more and more important, which requires the whole society to have a comprehensive understanding of personal information protection, we must need the whole society to widely publicize personal information security and protection work, so that the majority of people realize the importance of personal information security and protection work, and the whole society can form a good environment and atmosphere based on this to use and protect their personal information. However, due to our lack of publicity and efforts, we have not been able to establish a good social environment and atmosphere for the protection of personal information, resulting in a serious lack of awareness of people's personal information protection. The root cause, from some countries to relevant departments and institutions to the entire society and all industries, there are widespread defects in the protection of personal information and publicity and education, due to the lack of publicity and education, people's awareness of personal information protection has great problems, resulting in personal information being leaked from time to time. Therefore, it is important to strengthen publicity and education on the protection of personal information. A good publicity and education atmosphere has not been formed to lay a good foundation for personal information protection, and people lack awareness of the importance of personal information protection. Due to the lack of publicity and education, there are great problems in people's awareness of personal information protection, resulting in the leakage of personal information from time to time. Therefore, it is important to strengthen publicity and education on the protection of personal information.

4. Construction of a Path for the Protection of Personal Information Rights

4.1 Strengthen the Awareness of Self-protection of Personal Information Holders

For personal information, we first need to protect ourselves well, which is the source of protecting personal information, and we need to protect ourselves from the source in order to prevent personal information from being leaked. Therefore, individuals should have a good sense of self-protection, so as to ensure that their personal information is completely protected from the source. This ensures that personal information is protected at the source. To this end, first of all, we must seriously attach importance to the disclosure and protection of personal information from the political ideology, personal information is extremely important for themselves, only by further improving their own awareness, can they not disclose their personal information to others at will, and then reduce the risk of personal information being disclosed; Secondly, when individuals carry out trading activities, important personal data and information must be protected in a timely manner, especially when scanning codes, filling in personal information and other activities, they must first recognize the potential and harm of such behavior, make reasonable identification, and have the ability and awareness to protect personal information, so as to make reasonable self-behavior in transactions; Finally, modern technology is undoubtedly a huge double-edged sword, which brings convenience to

our work and can easily lead to serious loss of our personal data, bringing immeasurable losses. Therefore, the protection of personal information must always be in our consciousness, and there must be no paralyzing thinking, only in this way can we build a powerful force for personal information protection.

4.2 Establish a Security System for Personal Information Processors

In order to effectively protect personal information, it is imperative to establish and improve rules and regulations. The improvement of the security guarantee system is an important foundation for the security of personal information.

First of all, from the perspective of socialist countries, for other relevant enterprises that collect and process personal information, the state should establish other relevant systems for the security of personal information of other enterprises through a macro means, so as to guide other relevant units to establish and improve rules and regulations, and shall bear the relevant legal consequences of violating relevant national laws and regulations or the provisions of enterprises or other relevant laws and regulations, and then achieve the purpose of maintaining the security of their personal information through other means of this system; Secondly, from the perspective of relevant units or enterprises themselves, for the protection of personal information, it is necessary to firmly establish a good professional ethics and professional responsibility, and regulate and restrain their bad behavior through publicity and education on professional ethics and professional responsibility. Finally, the construction of internal rules and regulations of relevant units responsible for protecting their personal information is also extremely important, and it is necessary to continuously improve internal rules and regulations, and restrict the illegal activities of relevant organizations and actors through internal rules and regulations.

Therefore, through the improvement and construction of a comprehensive personal information security guarantee system, it provides legal and effective institutional guarantees for the protection of personal information, which can not only effectively use personal information, but also fully and effectively protect personal information. Establish a good corporate image, so that enterprises become the defenders and executors who consciously perform personal information security guarantees.

4.3 Strengthen Publicity on Personal Information Protection, and Create a Good Security Atmosphere for Personal Information Protection

The progress and development of science and technology has provided great convenience for our daily work and life, but at the same time, the use and protection of personal information in modern society is still somewhat insufficient, in order to be able to arouse the people's understanding of the use and protection of personal information to attach sufficient attention, it is necessary to establish a good social atmosphere for the use and protection of personal information in the whole society, strengthen the use and protection of personal information knowledge publicity and education, Let people in modern society fully realize the importance of using personal information and the necessity of protecting personal information. This requires relevant social departments and organizations to increase

publicity and promotion of the protection of China's enterprises' personal information rights and interests. Through the use of modern new media technology, publicize and promote the importance of personal information protection, let the whole society fully realize the impact and harm that our personal information may bring when it is leaked on the network, and truly realize the need to effectively protect our personal information from the ideological point of view, and establish a good social atmosphere in the whole society. Form a good social atmosphere in the whole society.

4.4 Improve the Construction of China's Laws, Regulations and Systems

At present, China's personal information protection legislation should actively adapt to the needs of the information age. In the information age, the protection of personal information through privacy has certain defects, and the protection of personal information cannot stay within the scope of personal secrets or seek post-event relief. The law should establish the right to personal information as a new type of right, and the objects of legislative protection include not only personal information, but also a large number of information products and services generated after network operators, government organs and other social organizations collect and use massive amounts of personal information. First, the legal status of the right to personal information as an independent personality right is established in the Personality Rights Part of the Civil Code. The purpose of protecting the personal information of natural persons is to safeguard the personal dignity of natural persons, that is, the personal dignity embodied in the personal information of natural persons should be respected, and natural persons have the right to exercise independent control over their personal information. Second, improve the coordination and supplementary relationship between the Personality Rights Part of the Civil Code and the legal provisions on personal information protection of other departmental laws. Although the Personality Rights Part of the Civil Code provides for the protection of personal information, the laws and regulations on personal information protection are still scattered in different legal normative documents.

5. Conclusion

The right to personal information is a new type of right arising in the information age, and how to incorporate the right to personal information into the scope of legal protection is an important content of legal research. The philosophy of law also lays a theoretical foundation for discussing personality rights and the right to personal information in civil law. Personal information belongs to the category of "personality" of natural persons, and the protection of personal information is the natural and basic interest of the information subject, and this interest demand is not only inevitable, but also legitimate. Clearly protecting personal information in the form of personal information rights in the law can be consistent with the root and inherent requirements of personality rights. Through the argument and analysis of the personal information protection provisions in the Personality Rights Part of the Civil Code of China, this paper finds that the legislation does not stipulate relevant legal rules to clarify whether the protection of personal information should be legal protection or rights protection. In view

of this, the Personality Rights Part of the Civil Code should create the right to personal information, so as to protect the civil right of personal information in the form of independent personality rights. At the same time, it is necessary to coordinate the corresponding legal provisions on personal information protection in the Personality Rights Part of the Civil Code and the laws of different departments, accelerate the legislative work of promoting and implementing China's Personal Information Protection Law, fully grasp the legislative concept of balancing interests between natural persons, network operators, government organs and other social organizations, and achieve the legislative goal of protecting personal information and promoting the reasonable collection and use of personal information, as the development path of China's Personal Information Protection Law. The promulgation of the Civil Code does not mean the end of China's civil legislative activities, and the national legislature should continue to formulate relevant supporting laws and regulations according to the needs of social development. Specific to the field of personal information right protection, this article suggests that China should formulate the Personal Information Protection Law as soon as possible to stipulate operable legal rules for the protection of personal information rights. At the same time, in order to meet the needs of the people's courts in applying the legal rules on the protection of the right to personal information of the Civil Code and unify the standards of judicial adjudication, the Supreme People's Court should formulate relevant judicial interpretations as soon as possible in accordance with the needs of judicial practice in hearing cases of the right to personal information, so that the legal provisions on the protection of the right to personal information are implemented.

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