

Suggestions on Civil Law Regulation of Personal Information Network

Infringement

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Abstract: At this stage, computer technology and network technology are developing rapidly, which provides an efficient and convenient information exchange and communication platform for the majority of Internet users. At the same time, the problem of information security under the network background is more prominent. Network personal information resources cover a wide range, and its importance is self-evident. However, driven by interests, personal information network infringement events have occurred in recent years, which results in great losses to network users, and provides more paths for violations and crimes, triggering strong social repercussions and worrying consequences. In the process of using the Internet, the identity information, coordinate position, bank account number, password and other key information of Internet users may be deliberately intercepted or embezzled by some people, resulting in the risk of users' interests and even personal danger. The problem of personal information network infringement is prominent, which has also become one of the most worried and most need to be solved by the majority of network users. This paper introduces the legal regulation of personal information network infringement, and explores the civil law regulation scheme of personal information network infringement in the new period, so as to ensure the personal information security of Internet users from the perspective of legislation.

Keywords: Personal Information; Network Infringement; Civil law Regulation

With the popularization and application of network technology, it is necessary to regulate the collection, processing and use of personal information, which is also one of the key issues in legal research. It is also necessary to solve the problem of personal information network infringement through the legal level. In terms of the current legislation on the regulation of personal information network infringement, there are still some deficiencies, which are incompatible with the current network development, and effective measures need to be taken to solve it.

1. Overview of legal regulation of personal information network infringement

Personal information, that is, the synthesis of personal information that can directly or indirectly identify yourself, contains many aspects of information content, including psychological, physiological, intellectual, individual, economic, cultural and so on. This information can generally infer my identity and interest relationship directly or indirectly, which is related to my interest security and personal security. Therefore, based on the needs of human rights and the maintenance of social public order, we must ensure the security of personal information and curb network infringement. For personal information, the best way is to protect it through legislation. Legislative regulation and industry self-discipline all over the world are protection modes for personal information, but the advantages and disadvantages of different protection modes also coexist.

Legislative regulation determines the basic principles, rules and regulations of personal information protection through national and government legislation based on the legal level, and on this basis, constructs judicial or administrative

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relief schemes ensure the implementation of personal information protection. This protection mechanism can play a more comprehensive and systematic role in the protection and supervision of personal information, but it also lags behind. Some regulations are too strict for enterprises, so enterprises are constrained. Industry self-discipline is to formulate corresponding industry norms and guidelines for computer network practitioners, explain their responsibilities and missions in protecting personal information, and require the industry to carry out self-discipline and management. This protection model has certain pertinence and can protect the free flow of information, but the relevant provisions are often relatively loose. Some websites participating in the certification are not universal enough, the implementation mechanism is not perfect, and the relief method is single, which often makes it difficult to realize the compensation of the injured party. In addition, there is a technical protection mode, which provides necessary technical and software support for personal information security through the progress of network science and technology, but technical protection also has its shortcomings. Relevant network information theft, trojan virus and hacker attack technology are developing rapidly, and the technology needs to be constantly updated.

This paper mainly studies personal information network infringement from the legal level. In the practice of legal protection of personal information, the criminal law first determined the relevant protection provisions, and the relevant administrative and civil liabilities are constantly improving. The Amendment to the Criminal Law stipulates that if the sale of personal information obtained by state organs, financial institutions, transportation, education, communication, medical and other practitioners is an act of illegally providing it to others, or an act of stealing or buying and selling information through technology, if the circumstances are serious, they need to pursue their criminal responsibility and shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention, impose or only impose a fine. In terms of civil infringement, the relief for personal information network infringement needs to be accelerated and improved. Considering that the personal information interests are different from the traditional life, body and material property interests, and the network infringement is different from the traditional infringement, and many problems are more new than the old. Therefore, we must comprehensively learn from the advanced special legislation of other countries and effectively regulate the personal information network infringement in combination with the current situation of China's legislative resources.

At this stage, there is no special law for personal information protection, and most of the relevant protection provisions are scattered and presented in different laws and regulations. In the previous legal documents, The General Principles of the Civil Law stated in the provisions on the right of personality, which is also the legal source for the protection of personal information, but the legislation did not clearly explain personal information. The Tort Liability Law of the People's Republic of China promulgated in 2009 also does not mention the concept of personal information. However, Article 36 of the legal document stipulates the tort liability of network users and the notice clause and knowledge clause of the infringement of network service providers. For some prominent personal information network infringements, it points out that the perpetrator needs to bear the corresponding tort liability. The above two laws are abolished with the implementation of the civil code. Although the contents are reflected in the civil code, on the whole, there are still great deficiencies in the provisions on personal information network infringement in China's current civil law regulation.

2. Civil law regulation countermeasures of personal information network infringement

2.1 Grasping the basis of civil law protection of personal information and establish the right of personal information

It is an inevitable requirement for the civil law to establish the protection of personal information, but the basis of protection has not been established. There is no unified conclusion in the academic circles on the basis of the protection of personal information by civil law, and the relevant understanding and views are also different. After synthesizing relevant research, the author points out that it is necessary to establish the right to personal information based on personal information, which is the basis of civil law protection, that is, for the framework personality right with the dual attributes of spiritual and material interests, based on the civil legal relationship of personal information, the self-determination and management of personal information right should be established.

2.2 Accelerating the improvement of legislative regulation between substantive law and procedural law

The network infringement of personal information often involves many fields. If only in accordance with the provisions of the general civil law, the legal protection that can be realized is greatly limited. Therefore, it is necessary to introduce the Personal Information Protection Law as soon as possible based on the existing theoretical achievements and

legislative and judicial practices, and for the protection of personal information, so as to protect personal information from infringement through special legislation. In legislation, we need to refer to foreign legislative experience and practices, or we can connect and coordinate the substantive law and procedural law of personal information protection in combination with the special legislative experience of some special administrative regions in China, so as to ensure that both substantive law and procedural law can be regulated accordingly. In establishing the Personal Information Protection Law, we should fully understand the importance of network security and information work, adhere to the problem orientation, and promote development around the establishment of good laws, in order to give full play to our advantages based on functions, constantly strengthen the publicity of relevant laws and regulations, and improve the level of administration according to law and continuously improve the ability to ensure development, as well as promote network security and information work to a new level. Based on the new development stage, we should implement the new development concept, build a new development pattern, and improve our understanding of optimizing the business environment, earnestly acting as a role, so as to improve service efficiency, increase support for enterprises, and promote high-quality industrial development for building a safe network information environment.

2.3 Giving full play to the protection role of industry, law, technology and policy

To ensure the network security of personal information and avoid network infringement, we must coordinate multiple parties, cooperate and work together. In addition to improving the legislation from the civil law regulation, it is also necessary to coordinate the industry, improve the self-discipline of the network industry, and require the industry to improve the awareness of user information security protection, in order to establish strict industry working standards. At the same time, we should strengthen the application of technical protection measures, actively develop network information security protection technology, and constantly accelerate technological innovation, so as to strengthen the technical foundation of network information security protection. In addition, we should also improve relevant personal information protection policies, do a good job in network control and netizen behavior control, and do a good job in network information security supervision, to escort personal information network security in an all-round way.

3. Conclusion

From the perspective of relevant research, in order to solve the problem of personal information network infringement, we must grasp the development process of civil law regulation. Combined with the current lack of civil law regulation in this work, we should accelerate the improvement of legislation, coordinate all parties and cooperate well, so as to provide a reliable legislative and comprehensive response path for solving the problem of personal information network infringement.

References

1. Li W. On the protection of personal information network infringement from the perspective of civil law .Legal System Expo 2021;(08): 161-162.
2. Tang S. Construction of public interest litigation model for personal information protection in the network era . Administration and Law 2021; (01): 95-102.
3. Chen P. On the perfection of network tort relief system —— From the perspective of network personal information protection. Journal of Taiyuan Normal University (Social Science Edition) 2013; 12(04): 43-45.
4. Diao S. A comparative study on the imputation principle of personal information network infringement——comment on relevant provisions of China’ s tort law . Hebei Law 2011; 29(06): 92-98.