

Research on Personal Information Protection in Live Online Trial Investigation

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Abstract: Online litigation is a way of litigation in which the people's court, the parties, and other litigation participants rely on electronic litigation platforms to complete all or part of the litigation process online through the Internet or dedicated networks, focusing on how to realize the networkization of litigation through technology. Since the Supreme People's Court issued the "Rules for Online Litigation of the People's Courts" in 2021, the online litigation system has been formally established. The implementation of evidence investigation in online courtroom live broadcast is an important part of the operation of online litigation. However, with the continuous development of the online litigation system, online courtroom investigation live broadcast activities pose a serious threat to personal information protection. The conflict between the two cannot be balanced in the current era of rapid information development. This article will raise several issues arising from the tension between the two, analyze these issues, and propose rules for courtroom investigation live broadcast that are suitable for the current level of development of online litigation in China, thereby promoting the continuous development of China's smart justice.

Keywords: Online litigation, Live broadcasts of court trials, Personal information, Rights protection

1. Introduction

China has comprehensively promoted the rule of law in recent years, deepened judicial reform, and promoted judicial openness, striving to "let the people feel fairness and justice in every judicial case". In January 2021, the CPC Central Committee issued the "Planning for the Construction of Rule of Law in China (2020-2025)", which clearly states that China's judicial openness will move towards the direction of "insisting on openness as the norm and non-openness as the exception". Online court trial live broadcasts are an important measure to enhance judicial transparency and satisfy the public's right to know and supervise the judiciary. As the President of the Supreme People's Court Qiang Zhou has said, live broadcasts of court trials are the most concentrated and thorough way of judicial openness in the Internet era[1], and also a higher form of sunshine justice.

The implementation of evidence investigation in online court trial live broadcasts is an important part of online litigation operations. However, with the continuous development of online litigation systems, online court trial investigation live broadcast activities have posed a serious threat to personal information protection[2]. The conflict between the two cannot be balanced in the current era of rapid information development. In China, the Civil Code of the People's Republic of China (hereinafter referred to as the "Civil Code"), which came into effect on January 1, 2021, lists the protection of personal information and privacy as important contents in its personality rights chapter. The Personal Information Protection Law of the People's Republic of China (hereinafter referred to as the "Personal Information Protection Law"), which came into effect on November 1, 2021, repeatedly emphasizes the protection of personal information rights. Therefore, in the process of developing digital China and a strong cyber country, emphasizing comprehensive protection of personal information is never excessive. This article will raise several issues arising from the tension between the two, analyze these issues, propose rules for court trial investigation live broadcast that are suitable for the current level of development of online litigation in China, and promote the continuous development of China's smart justice accordingly.

2. Formulation of the Issue

2.1. Online Trial Investigation Broadcasts Disclose Personal Information

In the new era of deep integration of the Internet and justice, online trial investigation broadcasts directly disclose personal information when courts display case hearings on the Internet[3]. This refers to the leakage of relevant personal information, evidence information, and case information that can be easily intercepted, tampered with, maliciously spread or used illegally, or expose personal privacy, or cause infringement disputes.

Firstly, in the way of the live broadcast of offline trials on the platform of China's trial publicity network, personal information is disclosed by presenting party personal information, evidence materials, and case materials through oral description in videos. Secondly, in the way of the live broadcast of internet remote trials on corresponding platforms, based on online litigation and network technology support, electronic evidence is presented directly on the live broadcast page for parties to check. Clear and intuitive display of information containing party privacy and the reasons for controversial cases; again, high-speed and low-latency 5G networks reflect party facial information and voices in live online trial investigation broadcast videos[5]. Combined with personal basic information and case information in court hearings, a personally identifiable portrait is formed, posing a threat to the protection of citizens' personal information and privacy in the information network era; finally, in online trial investigation broadcasts, if conflicts between parties intensify and infringement incidents are triggered by excessive remarks, these personal privacy and reputation-related information is rapidly spread through real-time and synchronized internet transmission. This increases the risk of parties' social evaluation being reduced and even leads to secondary litigation.

2.2. Online Trial Investigation Broadcasts Cause Information Security Risks

The deep integration of the Internet and justice has made personal information in mass trial videos into data resources that can be stored, collected, and transmitted. By using technologies such as web crawlers to parse trial broadcast web pages, individual behavior patterns can be calculated, analyzed, and predicted, ultimately leading to social peeping into individuals' privacy. This result is inconsistent with China's rule of law philosophy and inconsistent with the concept of strengthening individuals' control and protection of personal information as expected by the Personal Information Protection Law.

In conclusion, the protection of personal information in online litigation systems not only includes privacy information and reputation information that contains personal dignity, but also includes data information with property value and circulation value. It also includes infringement events caused by the leakage of personal information in live online trial investigation broadcasts and the resulting information security risks.

3. Legitimacy Analysis

3.1. Definition and Scope of Personal Information Protection

According to the Civil Code and the Personal Information Protection Law, personal information refers to "various information that has been recorded in electronic or other forms and is related to natural persons who have been identified or can be identified", but "does not include information that has been anonymized." Nowadays, with the widespread application of computers and the invasion of big data in people's daily lives, individuals not only have images in reality but also have information images and personality portraits in the online society. Unlike individuals in real life, everyone's behavior in the online world has the possibility of being traced, spread, or even distorted. Infringements of personal dignity in the Internet field also occur frequently[6].

Firstly, the scope of personal information protection in online court trial live broadcast refers to the information that can identify specific natural persons generated during this process, including the parties' names, addresses, ID numbers, and case information. These fragmented pieces of information combined reflect the identifiability characteristics of the Personal Information Protection Law. According to the attributes of personal information itself, it can be divided into general personal information and private and sensitive information. General personal information refers to generally meaningful information, that can identify specific natural persons and can be publicly disclosed. This kind of publicly disclosed information has product value and social value in circulation and utilization. Unlike privacy rights, there

are two attributes of protection and utilization that coexist on top of general personal information. The purpose of the Personal Information Protection Law is actually to standardize information processing to better utilize personal information. Private and sensitive information reflects strong personal rights attributes. When there is a conflict between public interests and personal interests, in general, abstract public interests should give way to specific personal private and sensitive information. Article 28, Paragraph 1 of China's Personal Information Protection Law stipulates that "sensitive information refers to personal information that is easy to cause harm to the personal dignity of natural persons or endanger their personal or property safety if it is disclosed or used illegally." Private information is subject to the provisions on privacy rights in Article 1032 of the Civil Code, which means that private information cannot be pricked, harassed, disclosed, or published without permission. It can be seen that private and sensitive information embodies the value of maintaining the tranquility of private life, and efforts should be made to prevent private information and other personal privacy from being known by the outside world through laws.

3.2. Legality Analysis of Personal Information Protection

In the conflict between judicial openness and personal information protection, it is necessary to clarify that citizens' rights are not naturally yielding to judicial power, and individual privacy rights are not naturally lower than the public's right to know. In the information age of deep integration of the Internet and justice, more attention should be paid to the protection of personal information.

First, the value balance between judicial power and citizens' rights. First, in the context of the development of online litigation system, advocating the value concept of judicial openness should affirm the protection of citizens' rights. From a positive perspective, judicial openness is mainly to ensure procedural legitimacy, supervise judicial fairness, achieve trial fairness, and oppose secret trials. The ultimate goal of these purposes is citizens' rights. It can be seen from the "Six Provisions on Judicial Openness" issued by the Supreme Court on December 8, 2009, that judicial openness is to ensure the public's right to know, participate in, and supervise the work of the court. Since judicial openness serves the interests of the parties, online trials should affirm individual rights. Second, online trial investigation live broadcast is a means of judicial openness to promote judicial fairness. Emphasizing the protection of personal information in this process is to safeguard the legitimate rights and interests of the parties. The two have different focuses and cannot be ignored. Online trial investigation live broadcast cannot sacrifice citizens' legal rights for blind openness, so it needs to be restricted. This is in line with both jurisprudence and the requirements of protecting public interests.

Second, the value balance between the right to know and privacy rights. The right to know is the right of citizens to know about important matters of state administrative and judicial organs or various affairs closely related to citizens' interests. From the perspective of rights philosophy, what is implied in the debate between online litigation and personal information protection is actually a contradiction between "active exploration" and "defensive defense" between the right to know and privacy rights. Although the supervision target of this right to know is judicial operation, it does not mean knowing about personal information of specific cases, but it still has adverse effects on personal privacy. In judicial practice, online trial investigation live broadcast will fully display the privacy information of parties to online listeners. Although this approach facilitates public supervision of trial organs and can force judges to improve their trial abilities and ensure procedural fairness, the audience's "curiosity" will make personal privacy become the focus of attention, ultimately deviating from the value purpose of the right to know. Therefore, the fundamental way to balance the value of public's right to know and personal privacy rights still needs selective and restricted openness of online trial investigation live broadcast activities.

4. Analysis of Infringement Decisions

4.1. Analysis of the Infringement of Personal Information by Online Court Investigations

Firstly, the infringing parties who infringe personal information in online courtroom investigation live broadcasts are not specific. The infringing parties specifically include two categories: first, the two parties who make infringing remarks in online courtroom investigation; second, the unspecified individuals who infringe the personality rights of the litigation participants after watching the live broadcast of the courtroom.

Secondly, the infringement of personal information in online courtroom investigation live broadcasts is manifested in various ways. The first type of infringement subject's infringement behavior is that the

parties' statements during the courtroom investigation and courtroom debate stages are prone to exceed the boundaries of verbal debate and thus evolve into infringing statements. After the infringing statements are fixed and amplified by the courtroom live broadcast, the publicizing and dissemination of the courtroom video may cause secondary harm to the parties' personality rights and interests, triggering secondary litigation. The second type of infringement subject's infringement behavior is manifested in the addition of insulting and defamatory remarks during the dissemination of courtroom video, causing damage to the parties' personality rights and interests[7].

Thirdly, the different stages of performance of personal information infringement in online courtroom investigation live broadcasts. To begin with, in the judge's questioning stage, to further clarify the facts of the case, the judge will ask the parties for relevant information based on the investigation of the case. Answering truthfully is equivalent to the parties voluntarily revealing personal privacy to the public, which seems to be a personal act of actively disclosing information. However, answering the judge's questions is a litigation obligation, aimed at better resolving disputes, not actively disclosing personal information. Moreover, due to respect for judicial authority, the parties generally answer the judge unconditionally, but from their perspective, they may not want to present the facts of the case and their private and personal information nakedly in the public courtroom video. What's more, in the stage of evidence presentation and cross-examination, the parties will be hosted by the judge to cross-examine and verify various evidence materials presented in court. The evidence materials not only contain the parties' privacy and information, but also further explain and interpret personal information during cross-examination. In particular, in remote trials, electronic evidence uploaded to the litigation platform may be displayed in the courtroom live broadcast screen, allowing the audience to see evidence details. Last and foremost, personal information is fully presented in the courtroom transcripts produced during online courtroom investigation live broadcast activities. The courtroom transcripts are synchronized and accurate records of the trial process, which are generally not disclosed to the public, only available to parties and lawyers to apply for from the court. However, in the current online litigation trial model, some courts not only aim cameras at computers used to record courtroom transcripts but also split video screens to specifically display electronic transcripts, making personal information of parties exposed. Although China's "Supreme Court of China's Provisions on the Publication of Trial Procedures through the Internet" (Interpretation No. 7 of the Court) implemented on September 1, 2018, allows courts to make public courtroom transcripts to parties, legal representatives, and defenders through the internet, it does not stipulate that courtroom transcripts can be fully disclosed to the public[8].

4.2. Infringement Determination of Online Court Trial Investigation Infringement of Personal Information

Based on the online litigation system, the difficulty in determining infringement lies in the disclosure of personal information during live courtroom investigations and the possible infringement of personality rights in some courtroom remarks. Among them, whether the live broadcast of online courtroom investigation complies with the "public" requirement for infringement determination of personality rights, and whether some remarks that may infringe personality rights have been publicly disclosed and disseminated through the Internet, which have broken the boundary line of legitimate exercise of litigation rights, and should be determined as infringement, are different opinions among different judges in judicial practice, which ultimately leads to divergent verdicts in similar cases.

Firstly, regarding the determination of the "public" element. One of the elements of infringement of personality rights such as privacy rights, reputation rights, and personal information rights is whether the infringing act is known to the public, and further reduces the social evaluation of the infringed person. This is the embodiment of "publicity" and "notoriety". For example, in the case of Li vs. Luo general personality rights dispute [Guangzhou Intermediate Court, (2020) Yue 01 Min Zhong 16680], Li believed that Luo published insulting words with personal attacks during the courtroom live broadcast[9]. As the online courtroom live broadcast has a wide range of dissemination, Luo's defamatory remarks such as "extremely dishonest" and "muddling through" infringed on Li's personal dignity. The judge held that the judicial process has "rights disputability", and the parties will debate whether each other's statements are in accordance with the principle of good faith. In addition, due to the highly professional nature of the litigation process and legal disputes, parties will inevitably deviate from the main theme of the dispute during the trial. Moreover, as the court is a special public place, "open trial" does not necessarily mean publicity of defamatory remarks. Therefore, although Luo's remarks were inappropriate, they cannot be easily determined as infringing remarks. Therefore, the court did not recognize Li's lawsuit request in the second instance. In combination with this case, it needs to be clarified that in the online litigation trial mode, the courtroom is no longer a specific trial venue. The openness of courtroom live broadcast far

exceeds the traditional open range of trials. Under the premise of meeting relevant conditions, the "openness" of courtroom live broadcast reaches or even surpasses the "openness" required for personality rights infringement. The trespasser's speech insults can be reproduced or replayed through courtroom live broadcast videos, which meets the publicity requirement in the identification of personality rights infringement and brings substantial adverse effects on the legitimate rights and interests of the victim.

Secondly, in terms of the identification of "infringing remarks". During the trial, fully expressing opinions is a manifestation of parties exercising their litigation rights. However, due to the differences in moral literacy and knowledge levels between the parties, and the varying degrees of respect for courtroom discipline and trial rules, the confrontational words are escalated into insults, defamation, and other infringing remarks. Under the online litigation trial mode, whether such remarks constitute infringement depends on whether the trespasser has a subjective fault, whether it will cause substantial damage to the victim's personal interests, and whether there is a causal relationship between the infringing remarks and the damaged results. For example, in the second-instance case of Han vs. Wang reputation rights dispute [Fushun Intermediate Court of Liaoning Province, (2022) Liaoning 04 Min Zhong 1134], during the online courtroom investigation live broadcast, Wang falsely accused Han of prostitution, and repeatedly fabricated and spread false facts[10]. After the live broadcast, friends from all over the country called Han to ask and express concern. The courtroom video containing false statements further damaged Han's personality rights after being published and disseminated on the Internet. Therefore, Han believed that Wang had committed acts of infringing his reputation rights and should bear the infringement liability. The court held that Wang's statements were excessive remarks for a justifiable reason, and there was no subjective fault; and due to insufficient evidence, Wang's statements in the live broadcast did not have a negative impact on Han's social evaluation and did not damage his reputation rights, so it was not an infringing act. It needs to be clarified that: Wang had the fault of fabricating and disseminating infringing remarks; based on the online broadcast of courtroom activities and the dissemination of courtroom videos, this infringing act has objectively affected the public's normal evaluation of Han, causing substantial damage to Han's reputation rights. This act meets all four elements of the trespasser's illegal behavior, the victim's damaged facts, the causal relationship between them, and the trespasser's subjective fault in infringing determination. The judicial system cannot arbitrarily raise the standard for identifying infringement and ignore the protection of parties' personal interests.

5. Suggestions for Improving Online Trial Investigations

5.1. The Basic Principle of Clearly not Live Streaming as a Principle and Live Streaming as an Exception

Cyberspace has a special ecological environment and logical thinking, and the Internet with the characteristics of "space separation" and "virtual" is not a simple technical platform. In response to the physical space court's litigation philosophy, judicial theory, institutional procedures, and resource allocation, the process of online litigation matching with the Internet is still in the stage of mutual integration. Full courtroom live streaming will only produce premature side effects, such as moral trials, interference with judicial fairness, and damage to the protection of parties' rights and other issues. Initially, the top-down implementation of courtroom live streaming undoubtedly aims at judicial openness and promoting judicial transparency. However, until now, it has produced problems that exceed the boundaries of personal information protection. The deviation of purpose has caused live streaming to impact China's personal information protection philosophy. Therefore, it is necessary to return to the logical starting point of judicial openness "people-oriented" and transform ideas, restore the source, and build an online courtroom investigation mode that can operate long-term and play the expected judicial openness function:

Firstly, it should adopt a non-playback and non-repeatable manner to avoid personal information and case information being repeatedly played, extracted, and analyzed, leading to improper utilization consequences; secondly, it should clarify the general principle of not live streaming; thirdly, for cases that should be live streamed, a graded live streaming approach should be adopted. At the same time, technological means should be taken to filter out sensitive, private, and detailed information in the trial process; fourthly, for cases that are not live-streamed, graphical methods should be used to publicly disclose the evidence part of the courtroom investigation to enhance judicial transparency and promote legal publicity and education.

5.2. Guarantee the Parties' Right to Choose the Procedure

Firstly, the right to know of the parties should be clearly stipulated. In the online trial investigation procedure, the parties are both the main body of the trial activities and the right holders of personal information. The court should fully guarantee the realization of the procedural rights and interests of the parties, that is, to give the parties the right to know in order to realize the benefits of procedural choice. This is also in line with the relevant provisions of the Civil Code and the Personal Information Protection Law on the right of self-determination of personal information, that is, the parties can effectively choose procedures only on the basis of knowing the dissemination mode of personal information, thus ensuring the realization of other subsequent rights. The right to know is the foundation and premise of all rights. The court should inform the parties of the live broadcast mode and live video of the online trial investigation before the court session.

Secondly, the right of objection of the parties should be clearly stipulated. Based on the exercise of the right to know, the parties have the right to object to the live broadcast of online trial investigation. The exercise of this right of objection is an effective litigation act, which should be reviewed and judged by the court for its legitimacy. It is specifically manifested as follows: First, whether the case is a private dispute or a dispute involving public interests. If the trial and results of a dispute have public product value orientation, and the social attention to the case is high or closely related to national and social interests, the personal information in public trial is legitimate, and individuals have no right to object; otherwise, if it is unrelated to public interests, the parties have the right to object to the live broadcast. Second, whether the objected part falls within the scope of "personal information that individuals do not want to disclose" should be protected by law. If it is inevitable that sensitive information about relevant subjects will be involved in the online investigation of the case, since such information has a strong personal attribute and is not closely related to public interests, there is no basis for the public's right to know, so it should not be disclosed; while general information related to public interests should be disclosed according to the requirements of the Personal Information Protection Law, focusing on the utilization of personal information.

Finally, it should be clearly stipulated that the parties have the right to deletion. According to relevant laws and regulations, the live broadcast and recording of court hearings by people's courts need to be reviewed on a case-by-case basis, and the reporting procedures for live broadcast and recording of court hearings at all levels by local people's courts are formulated by each high people's court. In practice, in order to achieve the assessment goal of live broadcast of court hearings and expand the number of cases for live broadcast, and avoid local courts using catch-all provisions to narrow down the scope of live broadcast, high courts usually simplify the reporting process to the maximum extent to achieve the goal of normalization of live broadcast, and even adopt a "one size fits all" approach requiring mandatory live broadcast and recording. Therefore, from the perspective of protecting the personal rights and interests of the parties, when the court fails to inform the parties of their right to know and object to live broadcast of court hearings, it should also grant the parties the right to apply for post-deletion of court hearing videos. This is also in line with the provisions of the Personal Information Protection Law, which stipulates that while strengthening the protection and utilization of personal information, it also stipulates that information subjects have the right to deletion based on explicit refusal. Therefore, if a party believes that the live broadcast video of online trial investigation infringes on their legitimate rights such as personal information rights or privacy rights, they can submit a written application for deletion to the court for review and decision.

5.3. Unified Trial Rules for the Determination of Tortious Infringement

Firstly, appropriately lower the standard for the determination of tortious speech. The essential element of personal rights infringement is that the facts of infringing others' reputations are known to third parties, which indicates that the infringing information needs to have a certain dissemination scope. In offline trials in specific spaces, specific groups, and limited physical spaces, the inappropriate remarks made by the parties will be stopped and explained by the judge on the spot, which can maximize the prevention of the spread of untrue remarks or even infringing remarks. That is, the dissemination path of infringing information is cut off, and the possibility of infringing on the parties' personal rights is minimal. However, online trial investigation live broadcast synchronizes these qualitatively difficult remarks on the internet and makes them public to unspecified individuals. It is equivalent to displaying information involving personal privacy rights, reputation rights, and other personal rights in front of unspecified audiences. Before the court can carry out technical processing, this information may be spread and diffused uncontrollably, resulting in serious damage to citizens' personal rights. Overall, online trials

expand the dissemination scope of infringing information. Therefore, to better protect personal rights in trial live broadcasts, the Supreme Court should unify the standard for adjudication and appropriately lower the standard for recognizing infringing remarks in trial live broadcasts in judicial practice.

Secondly, the situation of live online trial investigation is identified as the "open" requirement of personality right infringement. In personality right infringement disputes, the premise of "social evaluation reduction" is whether the behavior that damages reputation rights will be known by the public. Live broadcast of online trial investigation is to open the investigation process of the case trial to the public. If the parties publish the infringing speech in the live broadcast of the trial and commit the infringing act, the insulting, defamatory, and other false information in the speech will be found. As network communication is known by the public, due to the fast and wide communication speed, the scope, degree, and effect of information disclosure are much higher than the degree of "disclosure" in traditional disputes, which further causes more serious and irreparable consequences of social evaluation reduction for relevant subjects. Therefore, it will be more conducive to maintaining the personal dignity of citizens to identify the situation of live online trial investigation as an "open" requirement of personality right infringement.

5.4. Improving the Specific Rules of Online Trial Investigation Live Broadcast

5.4.1. Establish an Operable Legal Normative System for Trial Live Broadcast

The most explicit and detailed regulations on trial live broadcast are the "Provisions on the Trial of Live Broadcasting and Recording of Court Proceedings" issued currently and implemented by the Supreme People's Court in December 2010 (hereinafter referred to as the "Provisions on Live Broadcasting and Recording"). This document focuses on the internal system of the court system in terms of content, which has seriously deviated from the current level of online litigation development. As a result, many practical problems of trial live broadcast are "unlawful". Therefore, the Supreme People's Court should refer to the provisions of the judgment documents and online litigation rules, and issue a clear and detailed judicial interpretation involving trial live broadcast as soon as possible. The focus of the rules should be on personal information protection, connecting with the "Special Provisions on the Processing of Personal Information by State Organs" in the "Personal Information Protection Law", to solve the problem of unclear and non-specific protection of personal information and other personal rights in judicial operation process; at the same time, it is necessary to incorporate the norms of trial live broadcast into the revision process of the three procedural laws and related judicial interpretations.

5.4.2. It is Necessary to Clarify the Implementation Rules of Online Trial Investigation Live Broadcast

Its content should include basic principles, scope of application, rights of parties to litigation, court review rules, legal responsibilities, and relief measures. First, the basic principle is to adhere to the principle of not broadcasting live as a general rule, with broadcasting as an exception, and clarify that there is no necessity and value for online trial investigation live broadcast in most cases; secondly, the parties should be given the right to know, the right to object, and the right to delete, and the legal responsibility and remedy should be made clear; thirdly, it should divide the scope of application of online trial investigation live broadcast into three categories: (1) cases that should be broadcast: cases whose trial results may have a significant impact on public interests, such as mass cases, public interest litigation cases, hot cases, and cases with high social attention; these cases should be broadcast to achieve the effects of promoting publicity and education; (2) cases that may be broadcast: cases with typical significance or novelty or prominent focus that are under conditions ensuring legitimate rights and interests of parties; these cases may be broadcast; (3) cases that are prohibited from being broadcast: for cases that are not open to the public, it is naturally prohibited from being broadcast; for cases involving major sensitive social issues and involving marital, inheritance, personal rights disputes; since these cases contain a large amount of personal information and details that parties do not want to disclose, there is little relevance with public interests; therefore, it is also prohibited from being broadcast.

5.4.3. Strengthen the Approval Procedures and Supervision Management of Online Trial Investigation Live Broadcast

Firstly, it is necessary to strengthen the advance review procedures of online trial investigation live broadcast, and strictly control the online live broadcast of trial activities from the perspective of personal information protection. The "Live Broadcasting and Recording Provisions" have established a "one case one report" approval system. The trial court first submits a live broadcast application for the trial, and then it is approved by the competent deputy president. When approved, if it is found to be necessary, it should also be reviewed by the superior court. However, since July 1, 2016, when the Supreme People's

Court took the lead in normalizing live broadcasting of trials, the approval model of most courts in China has changed from "broadcast approval" to "non-broadcast approval". Under the basic principle of "not broadcasting live as a general rule, with broadcasting as an exception", we should still follow the "broadcast approval" method, establish a trial live broadcast model that is mainly decided by the presiding judge or collegiate panel, and report to the superior court for approval if necessary. At the same time, strengthen the approval procedures of trial live broadcast, and make advance plans for major risks in publicizing personal information in some cases.

Secondly, it is necessary to increase supervision and management of online trial investigation live broadcast activities. Article 6 of the "Live Broadcasting and Recording Provisions" stipulates that the supervision and management of live broadcast trials should be the responsibility of internal departments of the court, but it does not specify which department should carry out specific and detailed supervision. According to Article 8 of the "Live Broadcasting and Recording Provisions", each high people's court can formulate local implementation rules for trial live broadcast according to actual needs. Therefore, observing relevant regulations issued by local courts in China can find that most courts' trial live broadcast supervision activities are handled by the trial management department. However, this regulation is chaotic and ineffective. It should be uniformly stipulated that the trial management departments of all courts across the country are responsible for supervising trial live broadcast activities, establishing a stable and long-term supervision mechanism, and refining rules to strengthen departmental supervision and management functions; at the same time, it should also take various technical measures to protect personal information security, including: (1) adopting different technical treatment measures according to personal information classification. For example, sensitive personal information that can be directly identified through face recognition can be processed by desensitization or mosaic processing or automated data encryption to reduce it to personal information that can be indirectly identified. Then further anonymization can be carried out according to different protection needs. For cases that should be broadcast, delaying live technology can be adopted and corresponding emergency measures can be taken. Information tracking feedback can also be used to improve the accuracy of the information in adjourned trials; (2) To avoid mining and illegal use of trial data and information, it is necessary to continue to improve anti-crawling technology, increase IP restrictions and behavior verification; set access thresholds and credit ratings for platform users, prohibit tourists from watching trial videos, and require users to improve their identity certificates and contact information; indicate on the homepage that downloading or using without authorization is prohibited or establishing mirrors; prominently remind users at the time of user registration and watching trial videos that it is prohibited to intercept, spread or distort trial fragments; prohibit infringement and illegal use of personal information and trial data; otherwise they will bear corresponding legal responsibilities.

Finally, clarify legal responsibilities and relief measures. (1) Public interest litigation can be considered for inclusion based on the degree of association with public interests to clarify the compensation liability of direct trespasser in the face of large-scale capture, leakage, and sale of personal information and data in online court trial live broadcasts. It can also cite the crime of illegally obtaining computer information system data to regulate the behavior of personal information being crawled and used illegally. (2) The tort can be requested to stop the infringement, eliminate the nuisance, eliminate the impact, restore the reputation, and make an apology through the civil litigation of the personality right lawsuit in the face of the personal information infringement case against a specific subject. Or claim compensation in the form of tort liability based on the four elements of the tort act, the damage consequence of personal information being infringed, the causal relationship between the two and the subjective fault of the perpetrator; In the case of serious disclosure of personal information, which constitutes the crime of infringing on citizens' personal information, if it involves a criminal offense, the inspecting organs should also initiate public prosecution to increase the illegal cost of such cases. (3) Regarding the issue of whether there is court responsibility in online court trial live broadcasts, the research's opinion is that the court should not bear the presumption of fault responsibility for information processors in accordance with the provisions of the Personal Information Processing Law. The reason lies in the fact that online court trial live broadcasts contain a certain degree of value in judicial openness. The court does not have direct or indirect intentional infringement of personal information in the process of live broadcasting trials and does not meet the constituent elements of tort liability. Therefore, it should not bear civil liability for tort compensation. However, this does not mean that the court has no responsibility for personal information infringement incidents. According to relevant provisions of the Personal Information Protection Law, court staff must fulfill their obligation to inform within a reasonable scope when handling personal information. They also have a duty to exercise caution and ensure security when disclosing information. Therefore, when court personnel fail to fulfill their duties of attention, review, and supervision and mistakenly put trial videos online and cause personal

information to be damaged, parties involved have the right to raise objections to the court. The court should promptly delete or take technical measures to prevent further damage. The relevant personnel who violate these obligations should be held accountable for their disciplinary responsibilities. (4) If the court fails to fulfill its obligation to inform in advance and does not guarantee the parties' right to know and object, this practice is not in line with due process principles. First of all, before trial hearings begin, parties have the right to submit oral or written opinions to the court. Secondly, during online court trial live broadcasts, parties can raise objections to the presiding judge and have the judge review and decide whether to end or close the live broadcast. And then, for trial broadcast videos that have been publicly disclosed on court trial websites and cause damage to personal information rights and privacy rights of relevant subjects, information subjects can apply to the judge for deletion and have the judge review. If a decision is made to retain them, a decision shall be issued to notify parties of their reasons. If a decision is made to delete them, they can be directly deleted. However, an explanation of their reasons must be attached to the original address of the video on the court trial website. Additionally, setting storage deadlines for trial videos is also a way to protect and provide relief for personal information and data. As time passes, public attention on cases decreases, and most trial videos do not need to be stored long-term. Therefore, attention should be paid to protecting personal information and data, and online court trial investigation videos that are no longer needed for public disclosure should be taken down. The establishment of different storage deadlines for different videos can consider factors such as case type, social impact level, and size of association with public interests. At the same time, when removing trial videos, it is also possible to retain traces of case numbers, trial deadlines, trial courts, judges, and other basic case information.

6. Conclusion

In general, online trial has both advantages and disadvantages in the deepening process of judicial openness in our country. Neither can we completely deny the live broadcast of trial investigation, nor ignore the role of online disclosure of trial activities in enhancing citizen participation and supervision and guaranteeing judicial transparency. Nor can we blindly exaggerate the value of live broadcast of trial investigation, so as to ignore the protection of relevant subject information and privacy in the process of opening trial video. In the era of comprehensive personal information protection, for the special field of court live broadcast, it is necessary to see that the special protection of personal information and personality rights and interests has profound significance and practical value. To this end, it is necessary to reshape the mode of "no live broadcast as the principle, live broadcast as the exception", return to the logical starting point of "people-oriented" in judicial openness, and clarify the procedural choice of the parties, namely, the right to know, the right to objection and the right to delete. Determine uniform trial rules for infringement judgments, establish an operational legal norm system for live trial broadcast, clarify the implementation rules for live online trial investigation, and strengthen the approval procedures and supervision and management of live online trial investigation.

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