The Effectiveness and Development of "Intelligent Execution" in Chinese Courts in the Context of Digitalization

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Abstract: In recent years, China's intelligent court construction has achieved obvious results, and the "intelligent execution" has greatly solved the problem of "difficult execution" in judicial practice. The "comprehensive management platform of execution command center" established by the Supreme People's Court of China has improved efficiency while integrating resources and has promoted the development of "intelligent execution" by radiating from the pilot cities to the surrounding areas in the form of point by point. However, "intelligent execution" still exists some shortcomings, system platform compatibility is insufficient, data security issues need to be strengthened, some areas of "intelligent execution" in the form of. In this regard, deepen the "intelligent execution" construction should be based on the overall, adhere to the main position of judicial personnel, focus on training complex information technology talent; strengthen data supervision, the introduction of laws, regulations, policies to protect the operation of the "intelligent execution"; at the same time to expand the network investigation and control the scope, the establishment of various units and institutions between the cooperation mechanism, so that the "intelligent execution" to achieve new breakthroughs.

Keywords: intelligent execution, intelligent court, big data

1. The new situation of "intelligent execution"

Technologies such as artificial intelligence and big data, spawned in today's Internet era, are changing many aspects of society with their disruptive innovation capabilities, while also injecting new energy into the judicial reform of China's courts and making them take a fresh step forward. On November 13, 2020, China's Supreme People's Court held a conference on cybersecurity and informatization, at which it considered and adopted the People's Court Informatization Construction Five-Year Development Plan (2021-2025), which proposed 15 standards to further refine the informatization of the people's courts.

"Execution" is one of the core businesses of the court, which is to realize the rights and interests of the parties to the lawsuit through the payment of the effective decision, so as to maintain social justice and transaction security, and thus safeguard the judicial authority. The information technology revolution has brought about a change in the judicial model, and the emergence of "intelligent court" has given rise to more judicial methods. The "intelligent execution" is an important part of the "intelligent court", which is to control and pay for the effective decisions by digital means, solving a series of problems in the process of execution of the previous court. It has solved a series of problems that existed in the process of court enforcement, and also addressed new judicial issues that have emerged in the context of the present era. The Supreme People's Court of China has set up an Internet investigation and control system, extending the scope of Internet search to new types of property such as securities, land, vehicles and houses, actively playing the role and advantages of the international platform, and continuously promoting the courts to "basically solve the difficulties in enforcement" through the form of "intelligent court". Through the form of "intelligent court", we will continue to promote the court to make new breakthroughs in "basically solving the difficulties in execution"[1].

2. The Effectiveness of "Intelligent Enforcement" in Chinese Courts

On the whole, the Supreme People's Court of China has established a "comprehensive management

platform for the execution command centre" by maximizing the integration of resources and efficiency, thereby providing unified management, coordination and command of the execution work of the lower courts. With the "Integrated Management Platform of the Execution Command Centre" as the core, the regional courts have made full use of the "Unified Case Handling System" and the "Public Execution System" of the four levels of courts. It has also promoted the improvement and development of the network inspection and control, evaluation and auction, credit discipline, execution commission and other auxiliary systems for the execution of cases in Chinese courts at all levels, and established the "1+2+N" execution information system.

In terms of core business, the core of enforcement business is property investigation and control, and the Supreme People's Court and local courts have promoted the transformation and upgrading of the court's property investigation model by establishing a "network enforcement and control system". For example, a provincial high people's court, the provincial land resources and housing administration, housing fund management center "point to point" to build a network enforcement and control system, "real estate online seizure" and other trial runs.

From the viewpoint of the execution process, "intelligent execution" promotes paperless office, the court can track the seizure, freezing and disposal of each subject matter from the Internet in real time, which not only saves human and material resources, but also improves the efficiency of the court office. At the same time, it realizes dynamic visualization of work operation, and it can watch and playback the video situation of on-site execution and the audio situation of letter and visit phone and report phone at any time. It also enables a comprehensive grasp of work indicators at different levels for coordination and scheduling.

The degree of development of "intelligent execution" is also related to the degree of economic development of each region, which inevitably leads to unbalanced development of "intelligent execution" among different regions due to the differences in economic development between them. However, the Supreme Court of China has chosen to take a point-by-point approach to promote the development of "intelligent execution" in China. Some developed cities have taken the lead in setting up relatively complete regional "intelligent execution" systems, and have formulated regional plans that take into account the specific conditions of each region. These cities and regions as the center of radiation outward, and gradually drive other areas of "intelligent execution" deepening and development[2].

3. The Development of "Intelligent Execution" in Chinese Courts

3.1. Existing problems in "intelligent execution"

During the construction of "intelligent execution", the local platform fully responded to the policy of the Supreme People's Court, and gave great play to the enthusiasm of each court to establish a series of systems and platforms for trial operation. However, when the Supreme People's Court integrated the systems and platforms, it found that many courts' systems and platforms were not compatible with them, resulting in a great waste of resources. Moreover, the "intelligent execution" platform is based on the rules of arithmetic written by the developer of the intelligent system, i.e. the system developer translates the current legal provisions into arithmetic in advance and then inputs them into the system through the algorithm. Therefore, there is a certain lag, and it is not able to respond to new problems arising in the process of enforcement, nor can it take into account the emotions and needs of the parties.

The construction and development of "intelligent execution" is based on systems and platforms, and the systems and platforms are based on data. Therefore, the data security of the system and platform becomes the top priority. In recent years, judicial network security incidents have been frequent, and China's Judicial Document Network has also been attacked. The accuracy of big data is closely related to the huge collection of data, and only the existence of a sufficient amount of data as support can improve the accuracy of big data applications. However, China's judicial system currently lacks information technology personnel, for the huge judicial data cannot be handled by themselves, so the form of "technical outsourcing" to hire third-party network companies to maintain the system data on the huge judicial data has become the conventional means. This makes the third-party technology company master a large amount of judicial data, so that the security of judicial data there are hidden dangers, judicial credibility is also greatly challenged.

The "intelligent execution" has a high demand for and reliance on judicial data, so data sharing is an important part of the process. At present, the courts have a low degree of data sharing, and are afraid

to share or unwilling to share. The reasons for this phenomenon are, firstly, the high cost of data collection and management, and the fact that many judicial data are paid for and require the payment of certain fees on time, which makes data owners reluctant to share; secondly, data owners are worried that they will be held responsible for any problems that arise in the process of dissemination and use after the data has been disseminated; and thirdly, data owners are worried about property disputes and are unwilling to share the data. For these reasons, there are "islands of information" in the data. The lack of openness and sharing of data has led to the inability to interoperate with each other across regions, and the effect of "intelligent execution" has been greatly reduced. And because of the lack of data and information, the development status of "intelligent execution" cannot be comprehensively and systematically assessed.

The effectiveness of digital systems relies on both the intelligence of the information system and the corresponding supporting facilities. As China continues to promote the construction of "intelligent court", courts around the country have purchased technical equipment and built local area networks and wide area networks. However, although some courts have kept up with the hardware, but due to the local economic and technological development, the "intelligent execution" is a formality, putting the cart before the horse. For example: some mountainous areas or remote rural areas, the executor's property in the form of physical and cash, in this case, if still required to use the network means of investigation and control is counterproductive, but the traditional means of investigation and control is more advantageous. Such as this, some courts do not take into account the actual local situation, the "intelligent execution" as the management assessment of the goal, not to play the "intelligent execution" of the essence of the role, but to increase the burden of judges.

3.2. The solution to the existing problems of "intelligent execution"

To solve the existing problems of "intelligent execution", we should base on the overall concept, from the "intelligent court" construction of the overall situation, the main position of the judicial personnel, while establishing a composite talent team. The law is a discipline that constantly obtains experience and wisdom from practice, and relies on rational thinking to settle disputes, so no matter what stage of the case, we should adhere to the subjectivity of judicial personnel, and make it clear that the construction of "intelligent court" is only to better assist judges in case processing[3]. At the same time, the degree of integration between legal and technical talents also determines the depth of legal artificial intelligence applications. Only when the two industries communicate and understand each other can they be better informed of each other's needs and expectations, thus enhancing the integration and intelligence of the "intelligent execution system".

The issue of network information security has always been the focus and difficulty of "intelligent execution". If the importance of network information security is ignored in the process of judicial enforcement, it will bring irreparable consequences to the country and the people. Therefore, we should raise the awareness of judicial staff of network information security protection, and the information technology department should vigorously strengthen network security training; the court should also strengthen the network information security protection system, establish a sound national court unified identity authentication system; strict data outsourcing, and gradually train the internal information technology talents of the court. In terms of policy, the legislative system on "intelligent execution" also needs to be improved urgently. At present, Chinese laws and regulations and judicial interpretations have many and complicated provisions for enforcement issues. In order to adapt to the social changes brought about by the progress of the times and the development of science and technology, the relevant laws should be revised in a timely manner to ensure data security; The new problems identified in the process of "intelligent execution" should also be analysed in a timely manner, so as to improve the regulation of new types of property such as virtual property and digital currency as soon as possible[4].

Adequate data samples are the basis for the development of "intelligent execution". In order to improve data sharing, courts can sort out data sharing lists according to their needs, and coordinate between various units and departments. At the same time, relevant policies should be introduced to clarify the conditions and procedures for data sharing and to provide uniform standards for data collection and use. At the same time, data holders should also look at the bigger picture, overcome the mentality of being afraid to share or unwilling to share, and treat data sharing with an open and inclusive attitude. We should strive to make data that should be shared circulate; and make data that should be protected thoroughly secure.

Broaden the scope and functions of the "intelligent execution" network investigation and control, coordinate the docking and resource sharing of various institutions and databases, establish cooperation

mechanisms, and improve the system development and information resource sharing platform. Enhance the participation of various units and departments in the "intelligent execution". For example, through the establishment of close cooperation mechanisms with different Internet service providers, intellectual property departments, and online loan platforms, we can realize the investigation and control of the virtual accounts owned by the executors[5]. Finally, while ensuring that the construction of supporting facilities is strengthened, different policies for "intelligent execution" are formulated according to the different developments in each region.

4. Conclusions

The "intelligent execution" of Chinese courts is an important initiative for the courts to adapt to the requirements of the information age, implement the new development concept, and meet the people's expectations for justice, as well as an important element of China's national information development. The "intelligent execution" has brought significant changes to the business of Chinese courts, but the increasingly diversified needs have also put forward higher requirements for the "intelligent execution" of courts. In the future, Chinese courts will continue to explore more and more comprehensive ways of "intelligent execution" to promote a deeper integration of law and technology, and thus advance the efficiency and justice of Chinese justice.

References

[1] Chen Guoping et al. eds. (2023) Rule of Law Blue Book: China Court Informatization Development Report (2023). Beijing: Social Science Literature Press.
[2] Liu Guixiang. (2018)The current situation and analysis of the implementation work of the people's courts. Chinese Applied Jurisprudence, 1, 1-7.
[3] Xu Jianfeng. (2017)Smart Courts: Promoting the Modernization of Judicial Capacity. Guangming Daily, 2017-7-28, p. 5.
[4] Zuo Weimin. (2020)Online litigation in China: an empirical study and development prospect. Comparative Law Research, 4-9.
[5] Yao Jiejing. (2020)The constraints of court wisdom enforcement and its relief path. Journal of Shanghai Jiaotong University, 28, 27-34.