



Better Access To Court Rulings

Courts are now required to publish rulings on the Internet in an effort to boost judicial transparency **By Wang Hairong**

Starting from the first workday of this year, courts at all levels in north China's Tianjin Municipality have assigned a new task to a certain number of their staff members—posting written court judgments on the Internet.

The Higher People's Court of Tianjin has produced detailed rules for the work.

Zhang Mian, vice president of the court, told *China Youth Daily* that courts in Tianjin are expected to publish about 70,000 judgment documents online every year, a number he derived from figures recorded in 2012.

Zhang said that in 2012, Tianjin's courts

received more than 193,800 cases, of which 35.6 percent were resolved through court proceedings and were awarded judgments as a result, while the remaining 64.4 percent were withdrawn after mediation.

With a large number of court rulings available online, Zhang said that litigants, agents ad litem and defendants can search for judges' decisions on similar cases and make comparisons, which will prompt judges to be more consistent when trying similar cases.

Rulings effective on or after January 1, 2014 are to be publicized first, while those reached in 2013 or earlier cannot all be put on online for now, Zhang said.

Tianjin courts' latest move to publish court rulings online was made in line with requirements of the Supreme People's Court (SPC), China's highest judicial body. Similar actions have also been carried out in other regions of the country.

"The initiative aims to make the judicial system more open," said

Zhou Qiang, the SPC's President. "Judicial transparency is crucial to ensuring the independence of judicial authorities as well as in boosting public trust in the judiciary system."

Least restrictions

From January 1, 2014, judgment documents will be published on www.court.gov.cn/zgcpwsw within seven days after decisions are made, according to a regulation issued by the SPC last November. The court launched the website on July 1, 2013, for this specific purpose.

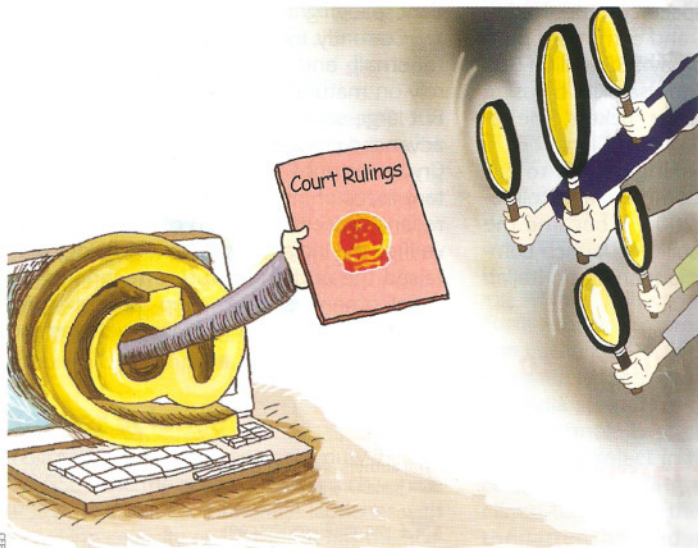
The regulation stipulates that published documents should not be amended, replaced or withdrawn.

Real names of parties involved in a lawsuit should be made public in the documents to ensure authenticity, according to the regulation.

The document also specifies exceptions. Cases involving state secrets, individual privacy or juvenile delinquency, as well as lawsuits settled through mediation or other situations unsuitable for publication, are allowed not to be published online. Rulings exempt for publication are to go through strict examination and approval procedures.

The SPC has asked courts to inform litigants about the range of judgment documents to be released online, and notify the general public about the initiative through multiple channels such as government websites.

Every year, Chinese courts produce more than 10 million rulings, said He Xiaorong,



Director of the Judicial Reform Office of the SPC. He estimated that it will take three to five years to add judgment documents from all Chinese courts online.

Early in 2010, the SPC also released a document stating that courts are allowed to publish judgment documents.

Publicizing eligible court rulings was optional in accordance with the previous SPC regulation but it has now become mandatory under the new one, said Sun Jungong, a SPC spokesman, at a press conference last November.

In Beijing, a website carrying rulings of local courts—www.bjcourt.gov.cn—was launched on December 31, 2013. In addition to judgment documents, the website also features court news, announcements, as well as information on trial processes and judgment enforcement. Information on trial processes is available only to litigants and their agents, as well as certain enforcement information. Netizens can also receive legal advice on the website.

Sun Jinbao, a lawyer with the Jinzheng Law Firm in Shenyang, capital of northeast China's Liaoning Province, believes it will prove effective in preventing judicial corruption to give the general public easy access to judgment documents.

"Our legal system has given judges discretion, and rulings can reflect their competence and performance. Publishing judgment documents online allows the public to oversee judges' work," Sun told *Liaoning Legal Daily*.

Privacy concerns

Since court rulings usually contain personal information on plaintiffs and defendants, publishing them online has provoked concerns over privacy.

Some litigants feel their privacy has been violated. A resident in southwest China's Chongqing using the pseudonym Li told local newspaper *Chongqing Times* that he felt "embarrassed and angry" when he knew a ruling on his divorce lawsuit was published online.

Li said that when a friend of his searched for Li's photographic works on the Internet, the friend got the ruling from his divorce lawsuit instead.

Reporters from *Chongqing Times* then searched the Internet and, as Li had said, the

divorce ruling, dated September 7, 2007, was easily found. The document had been displayed for six years on a website that primarily offers legal advice before Li was aware of its online presence.

The ruling states that Li's request for divorce was rejected. In the document there are also Li and his wife's birthdays, their home address, employers, and other details such as his son's name and birthday.

Some other litigants complain that online publication of judgment documents have cost them their jobs.

In June 2011, Zhao, a man from Zhangjiakou in north China's Hebei Province, who declined to give his full name, began to work at a property management company in Beijing's Changping District. He was asked to quit half a year later for no apparent reason, Zhao told Beijing-based *Legal Evening News*.

In early 2012, Zhao landed a job at another property management company in Beijing, but was dismissed again months later. When Zhao asked his manager for a reason, the manager suggested he conduct a search for himself online.

Zhao did so and discovered a ruling relating to a crime that he committed several years ago.

In 2006, when Zhao was 19 years old, he came to Beijing to look for work and lived in a friend's home. One night, he stole 300 yuan (\$50) and two cellphones from the friend and fled. He was caught one month later, and in August that year he was sentenced to eight months in prison.

As to whether publishing court rulings involving people with criminal records is an infringement upon their privacy, there are a variety of different opinions.

A private business owner in Beijing surnamed Han said that when recruiting new employees, his company usually checks with the police to see whether a job applicant has a criminal record. He said that the company once learned that a new hire had a criminal record and sacked that person the next day.

Han believes that people who have violated the law should take the consequences. He said "You [persons with criminal records] did not care about your own reputation when committing crime, so you should bear the negative effects of your actions."

In Han's opinion, publishing a criminal's judgment document online will deter him or

her from making the same mistakes again, and remind others to be on their guard against him or her.

Nonetheless, Zhang Ping, a member of the China Law Society and professor at the Beijing-based People's Public Security University of China, does not agree with Han.

Zhang said that if a person has committed a crime and been punished, his criminal record is a matter of personal privacy; they can choose not to disclose it to others unless they are inquired about it by government departments.

"In fact, the SPC has realized that publishing court rulings may compromise some involved people's privacy, so it has required courts at various levels to take measures to protect against this," Zhang said.

According to the SPC's new regulation, information not suitable for disclosure should be deleted from judgment documents before they are published online. Such information includes natural persons' personal information such as home address, contact information, ID number, bank accounts, as well as business secrets and other details that could have a negative effect on an individual if made public.

Although the SPC's regulation requires that litigants' real names should be kept on published court rulings, it also states that symbols can be used to replace names of litigants and their legal representatives involved in family dispute cases. Names of victims and their legal representatives, witnesses and appraisers involved in criminal cases, as well as names of defendants who have been sentenced to prison terms under three years and who are not recidivists, may also be replaced.

Zhang said that if a person finds his or her privacy was compromised because of the publication of court rulings online, he or she has the right to demand courts or commercial websites to rectify the situation. He also suggested courts and commercial websites use the proper technology to obscure private information in published court rulings so as to protect the privacy of concerned individuals. ■