

SPC Orders Courts to Publish Judgments Online

By Maarten Roos

China's is a civil law system, and one important consequence is that decisions made by one Chinese court are not binding on other Chinese courts. Nonetheless, precedent can be a strong factor when arguing cases, especially so in a society where courts want to avoid being proved wrong. One major challenge for lawyers, so far, has been to find relevant precedent cases. While technically public, there has been no public database to search judgments. This has also made it more difficult to critique courts for judgments where the legal basis is not so strong.

The ***Provisions on People's Courts Release of Judgments on the Internet***, issued by the Supreme People's Court on 21 November 2013, promises to change this as of 1 January 2013. Replacing earlier rules that were clearly not very effective, the Provisions instruct all courts to appoint special organizations to which they should pass their judgments within 7 days from their becoming effective. These organizations are then responsible to place the judgments on the China Judgment Opinion Network, which is to "provide easily operated systems for searching and reading, facilitating the public's searching and reading of judgment documents."

Some exceptions are still made. Judgments that touch upon state secrets or personal privacy and cases involving juveniles should be excluded, as should all cases concluded by court mediation. Also, the Provisions exclude judgments which in a catch-all phrase are "not suited for release on the internet", but only subject to written arguments and upon approval.

The judgments should be put online in their final form, with real information - again with some exceptions such as parties in marriage and family cases, and inheritance disputes; victims, witnesses and expert evaluators in criminal cases; and defendants in criminal cases, where sentences are three years or less and they are not habitual offenders. Other information that should be deleted from published judgments includes certain types of private information, commercial secrets, and "other content not suitable for disclosure".

The Provisions, once implemented, should give litigants an extra tool to argue cases. But more important, some observers see the Provisions as a direct sign of the country's attempt under Mr. Xi Jinping to make the judicial system more independent. If judgments become open to the public, it will be easier to critique courts where they make unsound decisions, whether for lack of expertise or because of undue influence. As a result, courts may become more careful when issuing their judgments and thus less susceptible to external pressures, while judges could get more freedom to conclude their cases without reference to opinions of their leaders. While it remains to be seen how quickly the Provisions will be implemented and how easily the China Judgment Opinion Network will become easily searchable, more transparency is a key factor to build a stronger judicial system.

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