

Second Study Commission
Civil Law and Procedure
66th Annual Reunion of the IAJ – Taipei, Taiwan
Questionnaire 2023

RESPONSE OF TAIWAN

How data protection rules are impacting on the way judges work in civil litigation?

- 1. In your jurisdiction is a court considered to be a data controller for data protection law purposes in all, or any, of the following situations:**
- a. When performing its judicial functions?**

To perform judicial functions or conduct court proceedings, personal data in litigation such as personal names, addresses, dates of birth, identification numbers of parties and other parties in interest is collected and preserved well by court.

Since 2019, our courts use electronic scanning equipment or other methods to convert the contents of paper documents which in case files into digital data to store in the form of electromagnetic records. Each court's electronic files can be exchanged, which promote the internal use of courts and the sharing of resources between courts, and enable electronic legalization of the production, acquisition, exchange, preservation, and management of documents.

- b. For purposes connected with the administration of justice, including the publication of a judgment or court decision, or a list or schedule of proceedings or of hearings in proceedings?**

Personal Data Protection Act does not apply to the publication of a judgment or court decision. Article 86 of Court Organization Act takes precedence over Personal Data Protection Act. It provides that the argument of a suit and the pronouncement of a judgment shall be conducted in a public court session. However, when there are issues that may hinder national security, public order, or social values, a court may decide to deny public access.

There are official electronic judgments¹ and court sessions system² in Taiwan. Almost all judgments, court decision and court sessions are open to the public and can be viewed online, except for some cases involving sexual assault, family matters or child protection matters.

c. For purposes connected with the efficient management and operation of the courts and for statistical purposes?

For judicial statistics, our courts collected some information such as cases commenced, terminated, and pending, reasons for divorce cases, the ages of the parties, etc. Monthly and annual reports are also published for the public and could be viewed online. However, these information is meaningless for judges.

2. In your jurisdiction does a data subject (e.g. a party to litigation, a witness, or a party whose interests may be affected by the litigation) have a right to information regarding the processing of their personal data by or on behalf of the courts?

¹ <https://judgment.judicial.gov.tw/FJUD/default.aspx>

² <https://csdi3.judicial.gov.tw/judbp/wkw/WHD1A03.htm>

Those who are legally requested to read the file may pay and request the court to deliver the copy of the electronic file. A party may apply to the court clerk for inspection of, copying of, or photographing the documents with expenses advanced.

Where a third party files the application, with the parties consent, or with a preliminary showing of his/her legal interests concerned, the court must decide the application.

Where the electronic file involve the privacy or business secret of the party or a third person and a grant of the application will likely result in substantial harm to such person, the court may, on motion or on its own initiative, render a ruling to deny the application or to restrict the application.

3. In your jurisdiction does a data subject whose personal data is published in a court document such as a judgment, have the right to seek rectification of allegedly inaccurate or inappropriately disclosed personal data?

According to article 232 of Code of Civil Procedure, only obvious mistakes in the judgment may be corrected by the judge. So when personal data is obviously inaccurate in the judgment, the parties or others parties in interest could have the right to seek rectification. The judge has discretion over rectifying the mistake.

In principle, neither the parties nor the others don't have the right to allege to exclude inappropriately disclosed personal data in judgment. However, to protect sensitive personal information, the judge may exclude or hide inappropriately disclosed personal data in judgment in some

special cases.

4. In your jurisdiction is personal data contained in a judgment or decision of a court, or in a list or schedule of proceedings or hearings, generally made accessible to the public? If so, are there exceptions and what are they? If not, is there a redaction requirement, or alternative requirement, to be implemented before a judgment / list/schedule can be published so as to safeguard the rights of data subjects?

Before 2000 AD, all personal data in judgment must be blanked and then open to the public. To balance “People’s Right to Know” and “Right to Privacy”, now only natural person's name could be showed in a judgment or decision of a court, or in a list or schedule of proceedings or hearings.

Article 83 of Court Organization Act provides that the publication, as mentioned in the preceding paragraph, may exclude the natural person's identification card number or other information that may easily identify the individual, with the exception of the natural person's name. However, even the natural person's name must be blanked in some cases involving sexual assault or juveniles. To protect personal data or sensitive information, judges could also decide not to disclose these information in judgment.

5. How are complaints addressed in your jurisdiction concerning alleged breaches by the courts of the rights of data subjects? Does your jurisdiction have a person or body with special responsibility for the supervision of data processing operations of courts when acting in their judicial capacity?

There is Information Center with special responsibility for the supervision

of personal data in each court. Data subjects whose personal information were inaccurately published or used without due authorization may seek rectification through submitting a formal complaint with Information Room of court or to judges directly.

6. In your experience have data protection rules impacted adversely on your judicial independence? If so, how have they done so?

No. There is no evidence to show that data protection rules do harm to judicial independence.