

Response of the JAPAN
to the INTERNATIONAL ASSOCIATION OF JUDGES
2nd STUDY COMMISSION

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?

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?

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

No courts are considered to be a data controller because the data protection law of Japan (the Act on the Protection of Personal Information) does not apply to courts. Meanwhile, courts have in place guidelines for handling personal information that they retain in association with the administration of justice. The guidelines have been established in light of the purpose of the Act on the Protection of Personal Information.

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?

As mentioned in 1. above, the data protection law of Japan (the Act on the

Protection of Personal Information) does not apply to courts.

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?

As mentioned in 1. above, the data protection law of Japan (the Act on the Protection of Personal Information) does not apply to courts.

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?

Under the Code of Civil Procedure, any person may file a request to inspect a case record of civil litigation.

There are the following exceptions under the Code of Civil Procedure. A third party may be restricted from accessing personal data contained in a case record if: (i) a material piece of confidential information about the private life of a party is entered or recorded in the case record, and a third party's inspection, etc. of the confidential portion of the case record would be substantially detrimental to that party's social life; or (ii) a trade secret being kept by a party to the case has been entered or recorded in the case record.

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?

As mentioned in 1. above, the data protection law of Japan (the Act on the Protection of Personal Information) does not apply to courts.

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

As mentioned in 1. above, the data protection law of Japan (the Act on the Protection of Personal Information) does not apply to courts, and therefore the data protection law has never impacted adversely on the judicial independence.