

Public Interest Environmental Litigation in China

Richard ZHANG Qing

PhD candidate, Faculty of Law, The Chinese University of Hong Kong
zhangqing@link.cuhk.edu.hk

Benoit MAYER

Assistant Professor, Faculty of Law, The Chinese University of Hong Kong
bnt.mayer@gmail.com

Abstract

Since January 2015, China's Environmental Protection Law has allowed Chinese Non-Government Organisations to initiate public interest litigation in relation to activities that harm the environment. This article assesses the implementation of this reform. Based on a variety of primary and secondary sources, it documents almost every case filed in the first two-and-a-half years of the implementation of public interest environmental litigation in China. It demonstrates a rapid development of this new field of litigation which, so far, has almost systematically led to Court decisions favourable to the plaintiffs. Yet, we also recognize some limitations and room for improvement, in particular regarding barriers to access to courts and questions of enforcement of judgments. Therefore, while public interest environmental litigation is a promising opportunity for the protection of the environment in China, some possible refinements of the relevant statutory framework can be identified.

Keywords

China – public interest environmental litigation – Environmental Protection Law – Civil Procedure Law – NGOs – courts

1 Introduction

It is well recognised that China's environment has suffered as a consequence of rapid economic development. The 13th Five-Year Plan for Environmental

Protection acknowledged major environmental concerns, including heavy pollution of the air, water and soils, considerable ecological degradation and high environment risks from by industrial activities. For instance, 78.4% of the cities failed to meet the air quality standards set by the Chinese Government.¹ Although the latest report of the Ministry of Environment Protection on the state of the environment revealed improvements in some areas, many other concerns are only worsening, including the quality of arable lands and ecosystems.² Greater awareness about such issues has given rise to public protests. Many in the Chinese Government and beyond are looking for new, effective ways to improve environmental protection. In this context, public interest litigation has been seen as one way to promote compliance with environmental standards and environmental protection.

This article documents the implementation of a new legal framework opening up environmental public interest litigation (PIEL) to Non-Government Organisation (NGO) plaintiffs from 2015 onwards. Section 1 provides a general overview of this statutory framework. Section 2 documents the implementation of this framework based on an original gathering of information from a variety of primary and secondary sources. On the basis of this information, section 3 assesses the success of environmental public interest litigation.

2 A New Statutory Framework

In 1989, China promulgated a dedicated statute on environmental protection, the Environment Protection Law (hereinafter EPL).³ Since then, however, the enforcement of environmental laws and policies has remained piecemeal. Local governments have often shown greater interest in promoting economic

1 '国务院关于印发“十三五”生态环境保护规划的通知' [Notice of the State Council on Issuing the 13th Five-Year Plan for Environmental Protection], issued by the State Council on 24 November 2016.

2 See GUO Wei, '全国人大常委会听取审议环境状况和环保目标完成情况报告' [Standing Committee of the National People's Congress listened to and reviewed the Report on Environmental Condition and Completion of Environmental Protection Goals] *China Environment News* (25 April 2017) 1.

3 Environmental Protection Law of the PRC (effective on 26 Dec 1989, as revised on 24 April 2014); an Environment Protection Law had been enacted in 1979 for 'trial implementation', which proved largely ineffective; see for example, WANG Xi and Robert BLOMQUIST, 'The Developing Environmental Law and Policy of the People's Republic of China: An Introduction and Appraisal' (1992) 5 *Georgetown International Environmental Law Review* 25, 30.

Download English Version:

<https://daneshyari.com/en/article/5011302>

Download Persian Version:

<https://daneshyari.com/article/5011302>

[Daneshyari.com](https://daneshyari.com)