

# Research on the Construction of Rule of Law of Personal Credit System in Dalian

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**Abstract:** *The paper, taking construction of rule of law of personal credit system as the research object, summarizes the development status of the construction of rule of law of personal credit system, and analyzes the main problems existing in the process of the construction of rule of law of personal credit system. And combined with the actuality of Dalian, the paper explores the path of strengthening the construction of rule of law of personal credit system, in order to promote the construction of integrity in Dalian.*

**Keywords:** *credit; personal credit system; the construction of rule of law*

## 1. Preface

Credit is an important norm of traditional morality in China, an important guideline for dealing with relationships between people, and an indispensable and important means of national governance<sup>[1]</sup>. As the foundation and part of the social credit system, the personal credit system plays an important role in the socialist market economic system as well as the social governance system. The construction of the rule of law for personal credit system is the inevitable requirement of social development, and it is also the basic content of the construction of personal credit system. Complete laws and regulations and the corresponding national standard system are the institutional guarantee for the construction of personal credit system, which can play a positive role in promoting the development of socialist market economy<sup>[2]</sup>.

## 2. Introduction

### 2.1. Credit and personal credit system

Credit is rich in connotation, widely existing in all fields of social life such as morality, law, economy, etc., and commonly existing in all human activities of covenant practice and rule practice. Credit has a broad and narrow sense. In a narrow sense, credit refers exclusively to the ability of the credit subject to build and fulfill the contract in the economic exchange; in a broad sense, credit refers to the honest and trustworthy ability of people in the whole social interaction, including the ability to comply with the social legal system, industry rules and moral norms.

Personal credit, served as the basis of social integrity, is the most direct manifestation of social integrity. In the modern social credit operation, personal credit has broken through the basic rules of market operation and moral and cultural norms of the level of the relevant restrictions, and it has become a new invisible resources of the individual. In a sense, personal credit has become a person's second ID card. A perfect personal credit system should be a set of ethical guidelines, laws, regulations, rules and behavioral norms, which can be used to guide and supervise personal credit activities, regulate and manage personal credit behavior, enhance the awareness of personal trustworthiness, and safeguard the personal credit information of the society<sup>[3]</sup>.

### 2.2. The construction of personal credit system

A complete social credit system is mainly composed of personal credit system, public credit system and enterprise credit system. Individual is the basic unit of society, and the personal credit system has become an indispensable and important part of the social credit system. Rule of law is the basis for the operation of the credit system, as well as the inevitable requirements of the development of China's socialist market economy. The establishment of a sound personal credit evaluation index system is not

only applied in the construction of personal credit system, but also becomes an important relying content for China to realize the modernization of the national governance system and the governance capacity, which plays a positive role in the promotion of the development of the socialist market economy, and which is of great significance for the construction of social honesty, the stability of the local society and the personal growth and career development.

### 3. The development status of the construction of rule of law of personal credit system

The social credit system of the western developed countries has a long history of development, which has been more than 160 years. And it initially emerged from the banking institutions, and then separated from the banks to become an independent functional institution. It has a relatively mature and complete system of credit collection, reporting, indicators and other systems and it has operational modes, and it occupies an important position in the social and economic fields. At present, it has basically standardized and scaled up in the construction of personal credit system in developed countries like Europe, the United States. Among them, the most representative models are the American model and the European model. The U.S. model is a commercialized operation type, which is a social credit system gradually formed with commercial credit collection companies as the main body, and which has become a perfect system in the form of "government legislation - industry associations - credit assessment agencies - credit consumers". The European model is government-led, which serves the credit supervision of financial regulators, establishes public credit bureaus, and guarantees the authenticity of credit data through legislation.

The construction of personal credit system in China began at the end of the twentieth century, and marked by the birth of the personal credit collection industry. The construction of credit system in China is led by government with social participation, synergistic development and steady advancement. In 2014, *The Outline of the Plan for the Construction of a Social Credit System (2014-2020)*, which was the first special plan in China for the construction of a social credit system at the national level, was issued by the State Council. And *the Outline* made it clear to speed up the task deployment of building a social credit system, laying down the basic direction of the construction of China's personal credit system. In 2016, the first guiding document in China for the construction of a personal credit system, *The Guiding Opinions on Strengthening the Construction of a Personal Integrity System*, clarified the overall basic direction of the construction of personal credit system in China and its main content, meanwhile, it put forward the guiding ideology and basic principles for strengthening the construction of a personal integrity system, and it also emphasized the need to further improve the laws and regulations for the construction of the personal integrity system to create a good legal environment for the personal credit system. In 2020, the State Council issued *The Guiding Opinions on Further Improving the System of Constraining the Discreditable Behaviors and Constructing a Long-term Mechanism for the Construction of Integrity*, which pointed out that efforts should be made to strengthen the construction of the rule of law on credit for promoting the social credit system to enter into a new stage of high-quality development. Under the guidance of the version of *The Law of the Construction of the Social Credit System in the People's Republic of China (Draft for Public Consultation to the Society)* in 2022, the legal construction of broad credit agencies including credit rating agencies, has been strengthened<sup>[4]</sup>.

In recent years, the municipal government in Dalian has deeply implemented the national, provincial and municipal social credit system construction work objectives, and the level of the rule of law of credit work has been continuously improved. In 2010, the municipal government in Dalian issued *The "Comprehensively Promoting the Construction of "Credit of Dalian" Work Program"*, which explicitly pointed out that it was necessary to accelerate the establishment of the social credit system of Dalian, which is the inevitable requirement of the social and economic development of Dalian. In 2019, the municipal government in Dalian issued *The Implementation Program on Further Accelerating the Construction of the Social Credit System*, which clearly stated that it was necessary to comprehensively promote the construction of social credit in Dalian, and to improve the construction of the credit system. *The Social Credit System Construction Work Points in Dalian in 2020* stated that it would focus on improving the level of rule of law of credit, continue to accelerate the construction of the social credit system in Dalian, and provide strong support for the city's high-quality economic and social development and optimization of the business environment. In July 2021, *The Social Credit Regulations in Dalian* formally came into force, marking that the construction of credit system in Dalian has been formally sailed into the track of rule of law. The regulations clearly stipulated the content of credit subjects, information management, rights and interests protection, legal responsibility, and penalties for breach of credit, which has been of far-reaching significance to promote the

high-quality development of credit construction in Dalian and the healthy economic and social development of Dalian. *The Key Points for the Construction of Social Credit System in Dalian in 2022* put forward twenty key tasks like vigorously strengthening the construction of the rule of law in credit, which could further enhance the level of the rule of law in credit and build a new pattern of the social credit system adapting to the high-quality development of the economy and society in Dalian.

#### **4. Problems in the construction of the rule of law of personal credit system**

Compared with the western countries, the construction of personal credit system in China started late, and it is still in the primary stage of the construction of personal credit system now. The construction of personal credit system is not sound enough, the legal construction is relatively behind the construction of the system, the corresponding legal system framework is still being improved, and there is no effective means of punishment for breach of trust<sup>[5]</sup>. There is an old saying that "A man does not stand without trust", so the problem of lack of personal credit has become a major obstacle in the process of the development of the socialist market economy at this stage.

##### **4.1. Inadequate laws and regulations**

The existing laws and regulations for regulating social credit are not strong enough in terms of practicality, completeness and compatibility, and the supporting system and implementation rules are not perfect. At the same time, there is a lack of a legal basis and environment for personal credit collection, an inaccurate definition of the concept of trustworthy and dishonest behavior, and a lack of a clear legal definition of the credit collection system, the collection and use of credit data, and open disclosure. There are no clear provisions on personal credit information, especially on personal privacy information and personal information that can be disclosed, and there is also no standardized guidance on the behavior or scope of the use of key personal information. All of these give an open door to criminals.

##### **4.2. No punishment mechanism**

For a long time, China's regulation of personal credit relies only on morality for constraints, and it has not formed a complete series of punitive mechanisms for defaulters, so that the mechanism that can benefit the integrity and punish the defaulters is not yet sound. The scope of personal credit and the disciplinary measures for the breach of trust have not been formulated in a detailed legal system. The legal protection of personal credit information is relatively weak, and there is no unified principle and guideline for safeguarding the security of personal credit information, and there is no unified personal information protection organization. In the absence of a disciplinary mechanism for breach of trust, not only will the defaulter not be punished accordingly, but sometimes he or she may even gain benefits or even profiteer from the situation. On the contrary, the integrity often suffers losses of different degrees because they keep their promises, resulting in the integrity often being ostracized in the market economy, and thus the strange phenomenon of the integrity being expelled by the defaulters.

##### **4.3. The lack of information security**

Personal credit information is wide-ranging, apart from an individual's basic information (e.g., name, gender, age, ID number), and it includes information such as an individual's consumption records, loan records, credit records, public records. As the frequency of recording, collecting and utilizing personal credit information becomes more frequent, the illegal collection and abuse of personal information also increases, and the accompanying risk of information leakage becomes higher and higher. Personal information can be used to recover the trajectory of an individual's financial activities, and thus the status of an individual's assets can be grasped. If personal information is leaked, abused or stolen, it will have a profound negative impact on the normal life of citizen. And it brings indirect losses to the individual and seriously threatens the individual's right to privacy, and there is no effective remedy channel when the rights are infringed<sup>[6]</sup>.

## **5. Countermeasures to strengthen the construction of the rule of law of personal credit system in Dalian**

### ***5.1. Construction Principles***

For strengthening the construction of the rule of law of personal credit system in Dalian, it needs to adhere to the general principle of combining objectivity and fairness with confidentiality, which not only ensures that it can objectively, fairly and comprehensively reflect the individual's ability to perform and willingness to act in good faith, but which also complies with the clarity, reasonableness, objectivity, fairness, validity and universality. The scope and common features of personal credit should be fully taken into account, as well as the accessibility and comprehensiveness of personal information. And information that is not prohibited by law from being collected, exchanged and used should be obtained from a variety of sources in different fields, meanwhile, the leakage or disclosure of personal information should be guarded against, so as to effectively safeguard the individual's right to privacy. At the same time, it is also necessary to adhere to the principle of gradual and steady progress, and the construction work of the rule of law for personal credit system is gradually realized in a planned and step-by-step manner.

### ***5.2. Establishing and refining the related laws and regulations of personal credit system***

At present, China has formulated a number of laws and regulations about personal credits, which have played a positive role in the security of personal credit information and its legitimacy to a certain extent, but which still need to further improve to ensure that there is a legal basis for credit collection work. The construction of the rule of law of personal credit system must follow the principle of unity, democracy and science. From the degree of the rule of law of personal credit, the economic credit foundation of China is not as deep as the western developed countries, and the construction of the rule of law of the personal credit system can not be completely copied from the existing credit legal system model in the West, or directly apply it to the economic situation of our country. Based on China's basic national conditions, a sound construction of personal credit system of the relevant supporting legal system should be established. The personal credit guarantee, social security system, medical insurance system, housing system and a series of related supporting systems should be reformed and improved. The existing laws and regulations related to personal credit should be revised and local legislation that has been tested in practice and has good social response should be referred to, so as to cooperate with each other and complement each other, and to prevent conflicts and contradictions between higher and lower laws. The personal credit-related system that is in conflict with the content of the existing laws and regulations should be refined, to solve the problems that the two are not coordinated, inconsistent and incompatible.

### ***5.3. Establishing a sound system of penalizing individuals for breach of trust***

As an important means of social governance, the disciplinary system for breach of trust has an irreplaceable role in disciplining the behavior of breach of trust, restricting the rights of the defaulters, and improving the credit environment. The establishment of sound laws and regulations related to personal credit is an important prerequisite and foundation for the disciplinary system. In the construction of the rule of law for personal credit system, the disciplinary system for personal breach of trust is a very crucial and important content. The perfection of the disciplinary system for personal breach of trust will directly affects the overall situation of the construction of personal credit system. Therefore, it is necessary to prudently establish and improve the disciplinary system for personal breach of trust, especially the importance and key contents in the disciplinary system for personal breach of trust, the determination of the boundaries of its authority, the expression of the behavior of personal breach of trust, and the difference among bad faith behavior, illegal behavior and uncivilized behavior. It is necessary to carefully study and reach a consensus to prevent the excessive use of the system at the local level. At the same time, the top-level design should be strengthened, and relevant laws and regulations and supporting systems for personal credit discipline mechanism should be introduced as soon as possible, for highlighting the effectiveness and practicality, and bringing the personal credit discipline work into the rule of law.

### ***5.4. Constructing a multi-dimensional personal mechanism of credit supervision***

Different countries have different ways of regulating personal credit, but they are basically the same

in protecting the rights and interests of the subjects of personal credit-related information through the power of the third party. Compared with developed capitalist countries, China has been practicing a socialist market economy, which pays more attention to the government's macro-control of the economy. Therefore, the government-led supervision of the personal credit system is a necessary path for the construction of personal credit system in China, and it is necessary to explore the construction of a multi-dimensional supervisory mechanism that led by the government, based on the industry and supported by the society. According to the actual situation of economic and social development, the government should formulate laws and regulations related to the personal credit system, improve the corresponding data and information supervision mechanism, including the collection, processing, storage and use of personal credit data and information, in order to protect the relevant organizations to deal with the right of personal credit data and information, and form an all-round long-term dynamic supervision mechanism. Communication channels between the government and members of industry associations should be established, and the self-regulatory mechanism and self-management of industry associations should be incorporated into the personal credit supervision system, and personal credit supervision should be further standardized and managed, and an endogenous mechanism for the protection of personal credit data information should be formed. At the same time, it has continued to increase its efforts to provide professional training for practitioners in the personal credit industry and to cultivate professional talents, thereby improving the overall level of professionalism of industry practitioners.

## 6. Conclusion

The construction of the rule of law of personal credit system is a systematic project, involving personal privacy and many other issues. It is better to avoid rushing blindly, and it is necessary to plan it as whole and to work closely with the government, society and related industries, then a personal credit system with pertinence, practicality and operability that is coordinated with China's laws and adapted to the market economy can be ultimately built. With the further development of the socialist market economy, the perfection of the rule of law of personal credit system will certainly promote the further consolidation and improvement of the credit system of the whole society.

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