

Article

Not peer-reviewed version

The Independence of Commercial Law and the Independence of Commercial Trial

Zhangsheng Sun *

Posted Date: 14 March 2024

doi: 10.20944/preprints202403.0874.v1

Keywords: Independent Commercial Law; Comparative Study; Commercial Trial; Practical Dilemma



Preprints.org is a free multidiscipline platform providing preprint service that is dedicated to making early versions of research outputs permanently available and citable. Preprints posted at Preprints.org appear in Web of Science, Crossref, Google Scholar, Scilit, Europe PMC.

Copyright: This is an open access article distributed under the Creative Commons Attribution License which permits unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.

Article

The Independence of Commercial Law and the Independence of Commercial Trial

Zhangsheng Sun

School of Political Science and Law, Xinjiang Normal University, Urumqi, Xinjiang, China;
1791393944@qq.com

Abstract: The independence of commercial law and the independence of commercial trial are the key issues in the development of China's market economy, which is of great significance for maintaining the market order and protecting the rights and interests of consumers. With the development of China's market economy, the independence of commercial law and commercial trial has gradually become the focus of social attention. On the one hand, the independence of commercial law refers to the effective distinction between commercial law as a normative system and other laws, which has an independent social and economic basis and a unique role. On the other hand, the independence of commercial trial means that commercial trial has relatively independent space and procedures, which can effectively guarantee the fair settlement of commercial disputes. The independence of commercial law is reflected in many aspects, including commercial law ontology, normative structure and content, external relations and so on. Commercial law has the independent social and economic foundation and the unique role, and is the foundation of the development of market economy. The basic principles, adjustment objects, and system design of commercial law are independent, which makes commercial law play its unique role in social life. There are differences between commercial laws and other laws, such as civil law and economic law, in essence and in expression form, which makes commercial law irreplaceable.

Keywords: independent commercial law; comparative study; commercial trial; practical dilemma

1. Theoretical Basis of Commercial Law Independence

1.1. Connotation and Extension of Commercial Law Independence

The independence of commercial law means that commercial law, as an independent legal department, has independent legal status and independent legal effect. The independence of commercial law includes the independent existence of commercial law, the independent adjustment object of commercial law, the independent adjustment method of commercial law and the independent basic principle of commercial law.

First of all, commercial law exists independently. Commercial law is the sum of legal norms regulating the international commercial transactions and the various relations of international commercial organizations among equal subjects. Commercial law not only regulates property relations, but also commercial agency relations, real rights relations, intellectual property relations and creditor relations. The independent existence of commercial law enables commercial law to better adapt to the needs of market economy and protect the rights and interests of commercial subjects. Secondly, the independent adjustment object of commercial law. Commercial law takes commercial relations as the object of adjustment, which include transnational commercial relations between individuals and transnational commercial organization relations. Commercial relation is the property relation between equal subjects, and it is the most active legal relation in market economy. The independent adjustment object of commercial law enables commercial law to better resolve commercial disputes and maintain market order. Third, the independent adjustment method of

commercial law. Commercial law directly adjusts commercial relations, directly stipulates the rights and obligations of commercial subjects in international commercial relations, and directly regulates the behavior of commercial subjects in the field of international commercial affairs. The independent adjustment method of commercial law enables commercial law to better resolve commercial disputes and protect the rights and interests of commercial subjects. Finally, the basic principle of independence of commercial law. The basic principles of commercial law are the basic principles of adjusting commercial relations, including the global principle, the principle of international economic sovereignty, the principle of equality and win-win, the principle of honesty and credit, the principle of security, the principle of development, etc. The independent basic principle of commercial law enables commercial law to better adapt to the needs of market economy and protect the rights and interests of commercial subjects.

The independence of commercial law is an important feature of commercial law as an independent legal department, and an important sign that commercial law is different from other legal departments. The independence of commercial law enables commercial law to better adapt to the needs of market economy, protect the rights and interests of commercial subjects, and promote the development of market economy. Therefore, the independence of commercial law is of great significance to the development of commercial law.

1.2. Relationship between the Independence of Commercial Law and the Independence of Commercial Trials

There is a close relationship between the independence of commercial law and the independence of commercial trial. The independence of commercial law is the basis of the independence of commercial trial. Only the independence of commercial law can guarantee the independence of commercial trial. The independence of commercial law means that commercial law, as an independent legal department, has its own legal standard system, legal principles and legal responsibilities. The independence of commercial legal norms is the premise of independent commercial trials. The independence of commercial legal norms means that in the process of commercial trial, judges need to follow the internal logic and principle of commercial legal norms when interpreting and applying commercial legal norms, rather than being subject to other legal norms. This independence enables commercial trial to deal with commercial disputes more flexibly and fairly, and better safeguard the rights and interests of commercial subjects. On the other hand, the independence of commercial trial is the guarantee of the independence of commercial law. The independence of commercial trial means that commercial trial institutions have independence in organizational structure, power and duties, and can exercise trial functions and powers independently without interference from other power organs. The realization of independent commercial trial can effectively prevent political, administrative and other non-legal factors from interfering with commercial trial, and ensure that commercial trial is just and fair. Only the independence of commercial trial can guarantee the independence and authority of commercial law norms in practical application, so as to realize the independence of commercial law. [1]

The relationship between the independence of commercial law and the independence of commercial trial can be discussed in detail from the following aspects:

First of all, the independence of commercial law is the basis of the independence of commercial trial. The independence of commercial law means that commercial law, as an independent legal department, has its own legal standard system, legal principles and legal responsibilities. The independence of commercial legal norms is the premise of independent commercial trials. The independence of commercial legal norms means that in the process of commercial trial, judges need to follow the internal logic and principle of commercial legal norms when interpreting and applying commercial legal norms, rather than being subject to other legal norms. This independence enables commercial trial to deal with commercial disputes more flexibly and fairly, and better safeguard the rights and interests of commercial subjects.

Secondly, the independence of commercial trial is the guarantee of the independence of commercial law. The independence of commercial trial means that commercial trial institutions have independence in organizational structure, power and duties, and can exercise trial functions and

powers independently without interference from other power organs. The realization of independent commercial trial can effectively prevent political, administrative and other non-legal factors from interfering with commercial trial, and ensure that commercial trial is just and fair. Only the independence of commercial trial can guarantee the independence and authority of commercial law norms in practical application, so as to realize the independence of commercial law.

Finally, the relationship between the independence of commercial law and the independence of commercial trial is also reflected in the interactive relationship between commercial legal norms and commercial trial practice. The independence of commercial legal norms provides a just and fair basis for commercial trials, and the practice of commercial trials provides valuable experience and materials for the improvement and development of commercial legal norms. This interactive relationship makes the independence of commercial law and the independence of commercial trial complement each other and jointly promote the development and perfection of commercial law.

To sum up, there is a close relationship between the independence of commercial law and the independence of commercial trial. The independence of commercial law is the basis of the independence of commercial trial. Only the independence of commercial law can guarantee the independence of commercial trial. The independence of commercial trial is the guarantee of the independence of commercial law. Only the independence of commercial trial can guarantee the independence and authority of commercial law norms in practical application, so as to realize the independence of commercial law.

1.3. Historical Evolution and Development Trend of Commercial Law Independence Theory

The theory of independence of commercial law originated from Roman law, and was finally established in modern legal system after the development of medieval Europe. The commercial law in Roman law is mainly about trade, contracts, debts and other aspects of the provisions, these provisions to a certain extent reflect the basic principles and laws of commercial activities. With the prosperity of European commerce, the commercial law part of Roman law gradually became an independent legal system.

In medieval Europe, the theory of independence of commercial law was further developed. During this period, commercial activities became an important part of social and economic life in Europe, and commercial disputes were also increasing. To meet the demands of commercial activity, merchants began to create their own courts, which were called "greyfoot courts." These tribunals are made up of businessmen with a reputation in the industry, and they follow the principles of flexibility, convenience, and efficiency, and apply the common trading habits of the businessmen. This independent commercial adjudication mechanism provides a practical basis for the development of commercial law independence theory. In modern legal system, the independence theory of commercial law has been further perfected. In this period, with the development of social economy, the content of commercial law became more complex, and more professional legal talents were needed to hear commercial cases. Therefore, it is necessary to make commercial trial independent. The independence of commercial trial means that commercial trial has an independent status in the legal system and is not interfered by other trial departments in order to better maintain the stability of commercial relations. The independence of commercial trial is conducive to the practice of the independence theory of commercial law, and also to the perfection and development of commercial law. The development trend of the independence theory of commercial law is mainly reflected in the following aspects: First, the independence theory of commercial law will pay more attention to practice, emphasize the combination of theory and practice, and provide a powerful legal basis for resolving practical commercial disputes. Secondly, the theory of independence of commercial law will pay more attention to fairness and justice, emphasizing the fairness and rationality of law to realize social fairness and justice. Thirdly, the independence theory of commercial law will pay more attention to the development and innovation of law to adapt to the development and change of social economy. Finally, the theory of independence of commercial law will pay more attention to international exchanges and cooperation to promote the development and application of the theory of independence of commercial law.

The historical evolution and development trend of the independence theory of commercial law show that the independence theory of commercial law has an important position in the legal system and plays an important role in maintaining the stability of commercial relations and promoting the development of social economy. In the future, the theory of independence of commercial law will be further developed and improved in practice, providing a powerful legal basis for resolving practical commercial disputes. [2]

2. The Theoretical Basis of Commercial Trial Independence

2.1. Connotation and Extension of Commercial Trial Independence

The independence of commercial trial means that commercial trial organs have independent rights and responsibilities in law and judicial practice. This kind of independence is reflected in the fact that the commercial judicial organs are independent and independent from the intervention of other organs when dealing with commercial cases.

The connotation of independent commercial trial. The independence of commercial trial mainly includes two aspects: one is the independence of commercial trial organs, and the other is the judicial independence of commercial trial organs. The independence of commercial judicial organs means that commercial judicial organs have independent rights and responsibilities in law and judicial practice, are not interfered by other organs, and have autonomy and independence. The judicial independence of commercial judicial organs means that commercial judicial organs are independent and independent from other organs when dealing with commercial cases. This independence is reflected in the fact that commercial judicial organs can exercise their judicial power independently without interference from other organs in dealing with commercial cases in accordance with the provisions of law. The extension of commercial trial independence. The extension of commercial trial independence is mainly reflected in the jurisdiction of commercial trial organs, trial procedures and trial basis. The jurisdiction of commercial judicial organs means that commercial judicial organs have independent jurisdiction over commercial cases and are not subject to intervention by other organs. The trial procedure of commercial judicial organs refers to the independence of commercial judicial organs in handling commercial cases in accordance with certain procedures. The trial basis of commercial judicial organs refers to the independence of commercial judicial organs when dealing with commercial cases in accordance with the provisions of law. In addition, the independence of commercial trial also includes the composition of commercial trial organs and legal responsibility. The personnel composition of commercial judicial organs means that the members of commercial judicial organs should have certain legal knowledge and professional ability, and can exercise judicial power independently. The assumption of legal responsibility refers to the independence of the legal responsibility of the main body of commercial responsibility when the commercial judicial organ deals with commercial cases.

The independence of commercial trial means that commercial trial organs have independent rights and responsibilities in law and judicial practice, and have autonomy and independence. The connotation and extension of commercial trial independence involve the independence of commercial trial organs, judicial independence, jurisdiction, trial procedure, trial basis, personnel composition and legal responsibility. The realization of independent commercial trial is conducive to guaranteeing the independence of commercial trial organs and judicial fairness, safeguarding the legitimate rights and interests of commercial parties, and promoting the justice, fairness and efficiency of commercial trial.

2.2. The Internal Relationship between the Independence of Commercial Trial and the Independence of Commercial Law

The relationship between the independence of commercial law and the independence of commercial trial can be deeply discussed from the following aspects. First of all, the independence of commercial law refers to the effective distinction between commercial law as a normative system and other laws, as well as the uniqueness and irsubstitutability on the basis of differentiation. The

independence of commercial trial means that in the process of commercial trial, judges can exercise their judicial powers independently without interference from other departments or individuals on the basis of following the provisions of law. The independence of commercial trial is the inevitable extension of the independence of commercial law, the two complement each other.

The independence of commercial trial is helpful to realize the independence of commercial law. The independence of commercial trial can ensure the authority and effectiveness of commercial law in practical application, so that commercial law can play its due role in resolving commercial disputes. At the same time, the independence of commercial trial can also promote the perfection and development of commercial law. In the process of commercial trial, judges need to interpret and apply commercial law, which is helpful to find the problems existing in commercial law, and then promote the revision and improvement of commercial law. On the other hand, the independence of commercial law also has an important impact on the independence of commercial trial. The independence of commercial law guarantees the status and function of commercial law in the legal system, and makes commercial trial have clear basis and guidance when dealing with commercial disputes. At the same time, the independence of commercial law also helps to ensure the justice and fairness of commercial trials. As a normative system, the value orientation and principle of commercial law are clear, which provides a just and fair judgment standard for commercial trial. There are close internal relations between the independence of commercial trial and the independence of commercial law, and they complement each other. The independence of commercial trial helps to realize the independence of commercial law, and the independence of commercial law provides the basis and guarantee for the independence of commercial trial. Only when the independence of commercial law and the independence of commercial trial can be effectively implemented, can the important role of commercial law in maintaining social and economic order and promoting social harmonious development be better played.

2.3. Historical Evolution and Development Trend of Independent Theory of Commercial Trial

The theory of independent commercial trial originated from Roman law, and after the development of the Middle Ages in Europe, it has been widely used in the world. As the representative of ancient legal system, Roman law's thought of independent commercial trial has influenced the later legal system to a great extent. In Roman law, commercial trial was regarded as a special form of trial with high independence. This theory was further developed and inherited in the later European Middle Ages.

In the Middle Ages of Europe, the independence of commercial trial has been more deeply discussed. At that time, commercial trials were usually composed of businessmen with industry prestige, who adhered to the principle of flexible, convenient and efficient trial, and applied the trading habits recognized by businessmen. [3] The independence of commercial trial is not only reflected in the organizational form of trial, but also in the procedure and rules of trial. The procedures and rules of commercial trial are often different from those of ordinary civil proceedings and have their own unique characteristics. With the development of society, especially the formation of modern commercial society, the independence of commercial trial has been more widely recognized. Under the influence of the trend of "law centralism", many countries have formulated written codes, which regard law, especially written legal rules formulated by the state through legal legislative procedures, as the premise of order and development. However, the written law often can not fully adapt to the actual needs, which needs to rely on commercial habits and commercial practices to make up for the deficiencies of the law. As a social custom that has not been recognized or given legal effect by the state, commercial custom has universality and spontaneity, so it plays an important role in resolving commercial disputes. After the 20th century, the social relations were complicated and changed greatly, and the written law could not meet the practical needs at all. At this time, the position of custom and jurisprudence is becoming more and more important, and case law and doctrine also become supplementary legal sources. As a kind of customary law, commercial customs, although not recognized by the state in form, have the effect of similar laws in many aspects. Commercial legislation is often based on commercial habits, and the trial of commercial cases is full

of professional color from the very beginning, forming its own independent style. The history of the theory of independent commercial trial can be traced back to Roman law, and after the development of the Middle Ages in Europe, it has been widely used in the world. The development trend of the theory of independent commercial trial is mainly manifested in the following aspects:

Firstly, the theory of independent commercial trial plays an important role in modern legal system. The independence of commercial trial is not only reflected in the organizational form of trial, but also in the procedure and rules of trial. The procedures and rules of commercial trial are often different from those of ordinary civil proceedings and have their own unique characteristics. Secondly, the development trend of the theory of independent commercial trial shows that commercial legislation should be based on commercial habits. As a social custom that has not been recognized or given legal effect by the state, commercial custom has universality and spontaneity, so it plays an important role in resolving commercial disputes. Finally, the development trend of the theory of independent commercial trial also shows that the trial of commercial cases is full of professional color at the beginning, forming its own independent style. Commercial legislation is often based on commercial habits, and the trial of commercial cases is full of professional colors at the beginning, forming its own independent style.

The history of the theory of independent commercial trial can be traced back to Roman law, and after the development of the Middle Ages in Europe, it has been widely used in the world. The development trend of commercial trial independence theory is mainly manifested in the important position of commercial trial independence in modern legal system, the commercial legislation should be based on commercial habits, and the trial of commercial cases is full of professional color at the beginning, forming its own independent style.

3. Analysis of the Status Quo of Commercial Law Independence and Commercial Trial Independence in China

3.1. Our Country Commercial Law Independence Status Quo

In our country, the independence of commercial law has made some progress, but there are still some problems in practical application. First of all, the construction of China's commercial law system has achieved obvious results, the issuance of individual laws and the operation of individual commercial laws have gradually established a system of their own, and gradually developed into an independent systematic class. However, although China's commercial law has achieved a certain independence, in practice, the application and interpretation of commercial law are different from civil law.

In today's economic globalization in our country, it is wrong to rely only on the simple commercial system, the basic consciousness of civil law and even traditional ethical and moral concepts to solve commercial problems, which is not in line with the current situation of economic development. To realize the independence of commercial law concept can make a more accurate judgment on commercial law phenomenon, so as to formulate laws more in line with commercial transaction phenomenon. Although there are certain limitations in the interpretation and application of China's commercial law, the company law, negotiable instrument law, insurance law, securities law, trust law and other commercial laws and regulations promulgated in China have systematic ideas, principles and systems, which shows that China's commercial law independence has made certain progress. However, the independence of China's commercial law still faces some challenges. On the one hand, at present, China does not have the economic basis and social environment and social basis for the production of commercial code, which makes the independence of commercial law in our country still need to be further developed. On the other hand, although China's commercial law has achieved some independence, there are still some problems in the application and interpretation of commercial law in practical operation, which makes the independence of commercial law in China still have some problems in practical application. In addition, the independence of commercial trial in our country also faces some challenges. Although China has established a relatively independent commercial trial system, in practice, there are still some problems in the independence of commercial trial. For example, the independence of commercial trial

in our country still faces some difficulties in judicial practice, such as how to guarantee the independence of commercial trial and how to coordinate it with other trial systems. [4]

3.2. The Status Quo of Independent Commercial Trial in China

In our country, commercial law as an independent legal department, its independence has been paid attention to. However, in practice, the independence of commercial trial still faces some difficulties. The independence of commercial trial in our country is not completely clear at the legislative level. Although China's Organic Law of the People's Court and Judges Law have provisions on the independence of commercial trial, there is still some ambiguity in the specific judicial practice, how to understand and implement these provisions. As a result, in commercial trials, judges are sometimes subjected to administrative interference when interpreting laws, which affects the independence of commercial trials. The independence of commercial trial in our country also needs to be further clarified in the judicial system. At present, China's commercial trial mainly depends on the local people's court, but the administrative and local protectionism of the local people's court often have a negative impact on the independence of commercial trial. The independence of commercial trial in our country also has problems in the construction of judges. At present, the selection and training mechanism of commercial judges in China is not perfect, which leads to the uneven professional ability and quality of commercial judges, which affects the independence of commercial trials.

In order to solve these problems, our country needs to further clarify the independence of commercial trial, perfect the judicial system, strengthen the training and selection of commercial judges, so as to improve the independence and fairness of commercial trial. At the same time, China also needs to learn from the experience and practice of international commercial trial independence, combined with our national conditions, to explore a suitable commercial trial independence road.

3.3. Analysis of the Relationship between the Independence of Commercial Law and the Independence of Commercial Trial in China

The independence of commercial law and the independence of commercial trial are the hot issues in current legal circles. The relationship between the independence of commercial law and the independence of commercial trial in our country is mutually promoting, but there are still some problems in practical application. The independence of commercial law and the independence of commercial trial promote each other in theory. The independence of commercial law means that commercial law, as an independent legal department, has independent legal status and independent normative system. The independence of commercial trial means that commercial trial organs should follow the principles and provisions of commercial law to ensure the justice and authority of commercial trial when exercising their jurisdiction. The two promote each other in theory, can effectively promote the development and improvement of our country's commercial law. However, in practical application, there are still some problems in the independence of commercial law and commercial trial. First of all, China's commercial law independence is insufficient. Although China has formulated a series of commercial codes, there are still some difficulties in the application of commercial laws in practice. This is mainly because the content of China's commercial code is too principled, lack of specific operation norms, resulting in commercial judicial organs often difficult to accurately grasp the provisions of the law when applying commercial law. Secondly, the degree of independence of commercial trial in our country is insufficient. Although independent commercial judicial organs have been established in our country, the independence of commercial judicial organs is still limited in practice. This is mainly because of the influence of China's political system and judicial system, which leads to the need for commercial judicial organs to consider political factors when exercising judicial power, and they cannot make independent judgments in full accordance with the provisions of the law. There are also some problems in the relationship between the independence of commercial law and the independence of commercial trial in our country. For example, in commercial litigation, commercial judicial organs often need to make judgments according to the principles and provisions of commercial law, but sometimes there are differences

between the judgments of commercial judicial organs and the expectations of the parties, resulting in the parties' doubts about the impartiality and authority of commercial judicial organs. [5]

Therefore, our country needs to strengthen the independence of commercial law and enhance the independence of commercial trial in order to promote the development and perfection of our commercial law. At the same time, our country also needs to further improve the political system and judicial system, guarantee the independence of commercial trial organ, and improve the justice and authority of commercial trial. Only in this way can the independence of commercial law and commercial trial be effectively applied in practice and promote the sustainable development of our social economy.

4. Practical Dilemmas and Challenges of the Independence of Commercial Law and Commercial Trial in China

4.1. The Practical Dilemma of the Independence of Commercial Law and the Independence of Commercial Trial in Our Country

In our country, the independence of commercial law and the independence of commercial trial face some difficulties in practical application. First of all, the legal basis of the independence of commercial law and commercial trial in our country is not perfect. Although China's commercial law has made some progress in the process of gradually moving towards independence, the relevant legal basis is still not perfect, which makes the independence of commercial law and commercial trial lack sufficient legal support and guarantee in practice. Secondly, in our judicial practice, judges are often influenced by civil law when dealing with commercial cases. Because civil law and commercial law overlap in many aspects, judges tend to judge according to the principles and provisions of civil law when dealing with commercial cases, but ignore the particularity and independence of commercial law. This makes it difficult for commercial law to play its due role in practical application. Thirdly, there are also problems in the organizational structure and system design of commercial trial in our country. At present, the establishment of commercial trial institutions in our country is not clear, and the professional degree of commercial trial personnel is not high, which makes it difficult to form an independent trial system in practice, which affects the realization of the independence of commercial law. There is also some contradiction between the independence of commercial adjudication and the development of internationalization. The independence of China's commercial trials is mainly to meet the needs of domestic commercial activities, and the development of internationalization requires that China's commercial trials remain independent and fair in international commercial activities. This makes the independence of commercial law and commercial trial face certain difficulties in practical application. [6]

4.2. The Practical Challenges of the Independence of Commercial Law and Commercial Trial in Our Country

The independence of commercial law and commercial trial in our country face some challenges in practical application. First of all, the development of commercial law independence in our country is still in its infancy. Although China's commercial code has been promulgated and implemented, there are still many problems in the application and implementation of commercial law in practice. This is mainly manifested in the unclear scope of application of commercial law, the interpretation and application of commercial law provisions are not uniform, and the judicial interpretation and the absence of cases in the implementation of commercial law. These problems have seriously affected the process of the independence of commercial law in our country. The independence of commercial trial in our country also faces some challenges. Although a relatively independent commercial trial system has been established in our country, the independence of commercial trial is still restricted to some extent in practice. This is mainly reflected in the fairness and efficiency of commercial trials. On the one hand, the fairness of commercial trials has been questioned, and some commercial cases may be affected by other factors in the trial process, such as local protection and relationship network. On the other hand, the efficiency of commercial trials is a prominent problem, and some commercial cases may be delayed and backlogged during the trial process, affecting judicial credibility and social

stability. In addition, China's commercial law independence and commercial trial independence in the practical application of the legal system and policy challenges. For example, some provisions in China's commercial code may have been unable to adapt to the development of market economy, and need to be revised and improved. At the same time, our government's management and intervention in the commercial field may also affect the implementation of the independence of commercial law and commercial trial. [7]

In view of these challenges, our country needs to take a series of measures to promote the development of the independence of commercial law and commercial trial. First of all, it is necessary to further clarify the scope of application and interpretation principles of commercial law to improve the uniformity and fairness of the application of commercial law. Secondly, it is necessary to strengthen the independence of commercial trial and guarantee the justice, fairness and efficiency of commercial trial. In addition, it is necessary to perfect our legal system and policy to provide a good legal environment for the independence of commercial law and commercial trial.

4.3. Reform Measures of Commercial Law Independence and Commercial Trial Independence in China

In our country, the commercial law is an important part of the market economy, and its independence is particularly important. However, due to various reasons, there are still many problems in the development and implementation of China's commercial law. Therefore, we need to reform the independence of commercial law and commercial trial in order to solve the problems in practical application. It is necessary to revise and perfect the commercial law of our country. At present, China's commercial law system has been relatively perfect, but there are still some aspects that need to be further revised and improved. For example, China's commercial law should strengthen the protection of the rights and interests of commercial subjects, clarify the legal status of commercial subjects, so that commercial subjects have the same status as civil subjects in law. In addition, China's commercial law should also strengthen the supervision of commercial activities to prevent commercial activities from causing damage to market order and social public interests. Secondly, we need to establish an independent commercial trial system. The current trial system of our country is mainly applicable to civil litigation, but the trial system of commercial litigation is not perfect. Therefore, we need to establish an independent commercial trial system, so that it has independence and professionalism, and can better deal with commercial disputes. The commercial trial system should follow the principles of justice, fairness and openness to ensure that commercial disputes are resolved in a just, fair and efficient manner. In addition, we need to strengthen the legal interpretation of the implementation of commercial law. Although China's commercial law has been formulated, in practical application, due to the complexity and diversity of commercial activities, it needs to be interpreted and applied concretely. Therefore, we need to strengthen the legal interpretation of the implementation of commercial law, so that it can better adapt to the needs of commercial activities. Finally, education and training on the implementation of commercial law should be strengthened. Commercial law is an important part of the market economy, the study and understanding of commercial law is very important for commercial activities. Therefore, we need to strengthen the education and training on the implementation of commercial law, improve the legal awareness and legal literacy of commercial practitioners, so that they can better comply with commercial law in practical operation, maintain market order and social public interests.

5. International Comparative Study on the Independence of Commercial Law and Commercial Trial in China

5.1. Development Trend of Independence of International Commercial Law and Commercial Trial

The independence of commercial law and the independence of commercial trial has always been a hot issue in the legal circle. The development trend of the independence of international commercial law and commercial trial is to promote each other and develop together. The development trend of the independence of international commercial law is mainly manifested in the following aspects. First, the deepening of global economic integration makes the importance of international

commercial law increasingly prominent. In order to adapt to this trend, all countries have strengthened the legislation and research of international commercial law. Second, the development of international commercial law has shifted from traditional civil and commercial law to more complex commercial law, including company law, securities law, bankruptcy law and so on. Third, with the development of Internet technology, e-commerce has become an important field of international commercial law. Various countries have issued electronic commerce laws to regulate the transactions of electronic commerce. The development trend of independent commercial trial is mainly manifested in the following aspects. First, the fairness and efficiency of commercial trials are increasingly valued. The problems to be solved in commercial trials are complex and diverse, and judges need to have high professional knowledge and judgment. Second, the independence of commercial trial is gradually guaranteed. All countries have passed legislation to clarify the independent status of commercial trials in order to ensure the fairness and efficiency of commercial trials. Third, the trend of modernization of commercial trial is becoming more and more obvious. With the development of science and technology, commercial trials have begun to adopt big data, artificial intelligence and other technologies to improve the efficiency and fairness of trials. The independence of international commercial law and the independence of commercial trial are the mutual promotion and common development of the two. The independence of international commercial law provides a broader vision and deeper research for commercial trial, which makes commercial trial more scientific and just. The independence of commercial trial provides a strong guarantee for the development of international commercial law, which makes international commercial law more perfect and concrete. [8]

5.2. Lessons from the Independence of International Commercial Law and the Independence of Commercial Trials

The independence of commercial law and the independence of commercial trial are important issues in the development of commercial law, which has great influence on the development of commercial law in our country. It can provide important reference for the development of China's commercial law by learning from the development experience of international commercial law independence and commercial trial independence. The experience of the development of international commercial law shows that the independence of commercial law is the inevitable trend of the development of commercial law. The independence of commercial law is not only conducive to the standardization and specialization of commercial law, but also to the justice and efficiency of commercial law. In the process of the development of international commercial law, all countries are trying to realize the independence of commercial law, such as the United States, Britain, France and other developed countries, have achieved remarkable results in the independence of commercial law. The development experience of commercial trial independence also shows that the independence of commercial trial is an important guarantee for the independence of commercial law. The independence of commercial trial is not only conducive to the justice and efficiency of commercial law, but also to the standardization and specialization of commercial law. In the process of the development of the independence of international commercial trials, all countries are trying to realize the independence of commercial trials, such as the United States, Britain, France and other developed countries, have achieved remarkable results in the independence of commercial trials. The development experience of the independence of commercial law and the independence of commercial trial also shows that the independence of commercial law and the independence of commercial trial are mutually promoting. The development of the independence of commercial law and commercial trial requires not only the perfection of legal system, but also the independence of judicial system. Only the independence of commercial law and the independence of commercial trial promote each other, can the independence of commercial law be realized. [9]

5.3. Problems and Challenges of the Independence of International Commercial Law and Commercial Trial

The independence of international commercial law faces many challenges. In international commercial activities, businessmen will constantly create new transaction modes in order to pursue

higher and more convenient commercial interests. However, these models often can not be incorporated into the adjustment of existing legal norms, in order to solve the resulting new problems, usually need to formulate and modify commercial laws and regulations. However, the formulation and revision of international commercial law need to consider various factors such as the legal system, cultural tradition and economic system of each country, which makes the independence of international commercial law face great challenges. The independence of commercial trial also faces some challenges. Commercial trial requires professional judges who can master commercial rules and technical norms and attach importance to the reference and application of rules and the reasonable use of technical norms when resolving commercial disputes. However, the innovation in the commercial field is often very different from the traditional civil law concept, which needs to pay attention to the spirit behind these technical norms in the process of adjudication, and implement appropriate adjudication rules. In addition, the independence of commercial trial also needs to solve some practical problems, such as how to ensure the fairness of commercial trial and how to balance the interests of all parties. There are still some problems in the practical application of commercial law independence and commercial trial independence. For example, the formulation and revision of commercial laws and regulations have become particularly frequent, which puts forward higher requirements for the professional quality and knowledge update of commercial trial personnel. At the same time, the independence of commercial trial also needs to solve some conflicts of interest, such as how to protect the rights and interests of commercial subjects while taking into account social public interests. [10]

6. Conclusion

The independence of commercial law and commercial trial will have better development in the future. With the development of social economy, commercial activities are becoming more and more complex, and the importance of commercial law is becoming increasingly prominent. Therefore, the independence of commercial law will receive more attention. With the continuous improvement of the rule of law, the independence of commercial trial will be better guaranteed. With the development of science and technology, the development of legal information technology will provide new possibilities for the independence of commercial law and commercial trial. For example, through technologies such as big data and artificial intelligence, commercial disputes can be predicted more accurately, providing judges with a more comprehensive and accurate legal basis, thus improving the fairness and efficiency of commercial trials. With the acceleration of the process of globalization, commercial activities are increasingly regional and international, and the independence of commercial law and commercial trial will face new challenges and opportunities. For example, in the context of global economic integration, the trend of internationalization of commercial law will be more obvious, and the independence of commercial law and commercial trial will need to better adapt to this trend to protect the legitimate rights and interests of commercial activities in our country. With the deepening of the concept of social fairness and justice, the independence of commercial law and commercial trial will pay more attention to fairness and justice. For example, in the process of commercial trials, more attention will be paid to protecting the rights and interests of vulnerable groups to avoid further widening of the gap between the rich and the poor caused by commercial activities. The independence of commercial law and commercial trial will have better development in the future. This requires us to further study the theory of the independence of commercial law and commercial trial, improve the relevant legal system, and strengthen judicial practice to better meet the needs of social development.

References

1. Li Zhi pomelo. Analysis of the independence of Commercial Law and the Independence of Commercial Trial [J]. Intellectual Guide, 2016.No.43(03):67.
2. Zhao Wanyi. The Independence of Commercial Law and the Independence of Commercial Trial [J]. Law Science (Journal of Northwest University of Political Science and Law).2012.v.30; No.191(01):56-66.

3. The independence of commercial Law and the independence of commercial trial [J]. Global Human Geography.2014.null(16):252-253.
4. Wang Min. Opinion on the Independence of International Commercial Law [J]. Journal of Heilongjiang Provincial Political Science and Law Management Institute.2010.No.87(12):80-82.
5. Zhangsheng Sun. A Study on the Relationship of Macroeconomic Regulation and Its Legal Adjustments. LNEP (2023) Vol. 26: 149-157.
6. Zhu Shiwen; Jiang Jian-Jin. A Re-exploration of the independence of Commercial legal Liability [J]. Theory Circle.2009.No.(08):97-98.
7. Fan Jian. Research on the Independence of Commercial Trial [J]. Journal of Nanjing Normal University (Social Science Edition).2013.No.187(03):76-86.
8. Tian Panpan. Analysis of civil liability in Commercial law [J]. Law and Society.2009.null(01):130-131.
9. Wei Jingjing. On the application of independence of Commercial law in our country [J]. Contemporary economy. No.473:108-109.
10. Zhangsheng Sun.Research on anti-monopoly and unfair competition from the perspective of administrative law. Science of Law Journal (2023) Vol. 2: 22-30.

Disclaimer/Publisher's Note: The statements, opinions and data contained in all publications are solely those of the individual author(s) and contributor(s) and not of MDPI and/or the editor(s). MDPI and/or the editor(s) disclaim responsibility for any injury to people or property resulting from any ideas, methods, instructions or products referred to in the content.