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Companies' Legal Departments: Organizational and Legal Status, Preventive and Judicial Protection (A Comparative-Legal Analysis of The Experience of The Republic of Uzbekistan And Foreign Countries)

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Abstract

Drawing on a comparative-legal analysis of the legislation of the Republic of Uzbekistan, the Russian Federation, the Republic of Kazakhstan, the Federal Republic of Germany, the French Republic and the People's Republic of China, as well as of international instruments (the UNCITRAL Model Law on International Commercial Arbitration of 1985 and the New York Convention of 1958), the article examines a set of systemic problems characteristic of the activity of the legal departments (in-house counsel) of private companies. It investigates such issues as the organizational and legal status and independence of the legal department, the professional qualification and accreditation of corporate counsel, preventive legal protection (including the institution of due care and due diligence), the protection of intellectual property, the quality of the preparation of statements of claim and the enforcement of judicial acts, the use of alternative dispute-resolution methods (mediation), and the application of the norms of international commercial arbitration. On the basis of the conducted research, practical recommendations are formulated aimed at improving the national regulation of the activity of companies' legal departments in Uzbekistan, with due regard for leading foreign experience.

Keywords: Legal department, corporate counsel, in-house counsel, organizational and legal status, preventive legal protection, due diligence, due care, judicial protection, mediation, international commercial arbitration, comparative law.

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1. Introduction

The modern market economy brings to the fore the task of comprehensive legal support for entrepreneurial activity. As O.A. Cheparina notes, «The legal work of an economic entity is an activity to ensure the functioning of the economic entity as a participant in civil (commercial) transactions by means of legal instruments, including activity to ensure the exercise of rights and the protection of the interests of the economic entity… The essence of organizing the legal work of an economic entity consists in establishing, at the level of the economic entity, an effective system for managing legal risks».

A company's legal department, traditionally referred to in international practice by the term «in-house counsel», is a key link ensuring not only the reactive protection of the

company's interests before State bodies, counterparties, and courts, but also the preventive minimization of legal risks at all stages of business activity. The Rule of Law Index for 2024, prepared by the global organization the World Justice Project, notes in particular: «Imagine an investor seeking to commit resources abroad. She would probably think twice before investing in a country where corruption is rampant, property rights are ill-defined, and contracts are difficult to enforce. Uneven enforcement of regulations, corruption, insecure property rights, and ineffective means to settle disputes undermine legitimate business and deter both domestic and foreign investment».

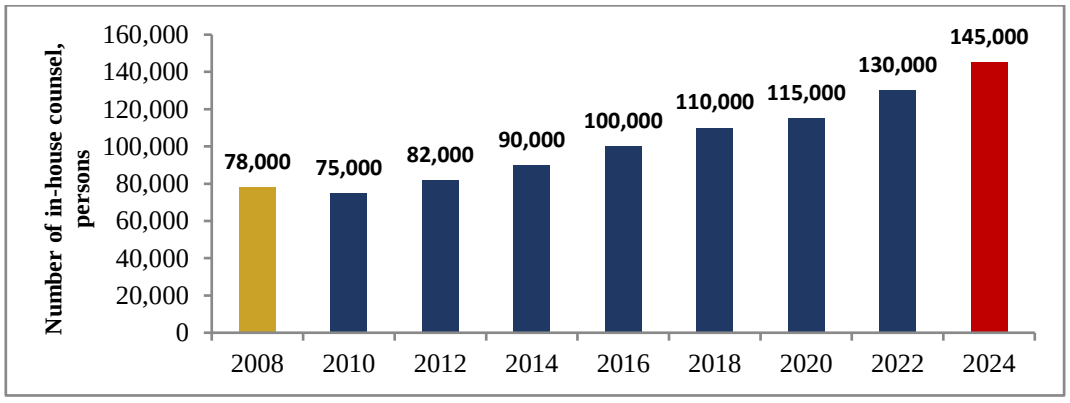
The relevance of the study is determined by several interrelated circumstances:

First, according to the data of the Association of Corporate Counsel (ACC) – the largest professional association of in-house lawyers, numbering more than 40,000 members from 85 countries of the world, the number of corporate counsel in the United States alone in 2024 reached 145,000, having increased by 87% compared with 2008 and outpacing the growth rates of both the advocacy and the public sectors of the legal profession. This testifies to a global trend of shifting the legal support of business from external consultants to companies' internal legal divisions.

Histogram No. 1.

DYNAMICS OF THE NUMBER OF CORPORATE (IN-HOUSE)

COUNSEL IN THE USA, 2008–2024

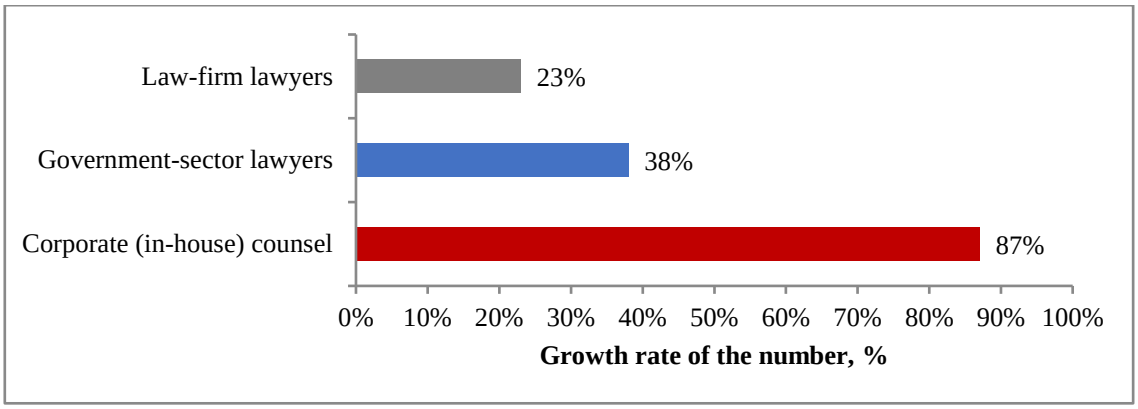


While the corporate segment of the legal profession grew by 87% in the USA over 16 years, public-sector lawyers showed growth of 38%, and the lawyers of private law firms– only 23%. This demonstrates the structural shift of the profession towards in-house, reflecting companies' preference to control costs, ensure responsiveness, and have a deeper knowledge of business processes.

Histogram No.2.

COMPARATIVE GROWTH RATES OF THE NUMBER OF

LAWYERS IN THE USA BY SECTOR, 2008–2024



The most effective form of organizing a company's legal work is the existence of an internal legal department, which in itself does not preclude the possibility of combining it with outsourcing (engaging advocates or independent legal consultants) where it is necessary to resolve non-standard legal or quasi-legal situations (intellectual property, complex foreign-trade contracts, etc.). As the domestic researcher A. Palvanov rightly notes, «legal work in economic entities is carried out not only by the in-house staff of the legal department, but also by specialized law firms, individual entrepreneurs (lawyers), and bar associations on the basis of civil-law contracts».

Second, in recent years a substantial reform of the legal system has been carried out in the Republic of Uzbekistan: a draft of the new edition of the Civil Code has been prepared, a new edition of the Tax Code has been adopted, the Labor Code, a new Economic Procedure Code has been adopted, and the Laws «On Mediation» and «On Personal Data» have been adopted. However, notwithstanding the scale of the legislative transformations, the issues of the organizational and legal status of the legal departments of private companies, the professional qualification of corporate counsel, and the standards of their activity remain outside the field of special legal regulation.

Third, a study of the practice of the economic courts of the Republic of Uzbekistan reveals persistent systemic shortcomings in the activity of legal departments, manifested in the low quality of the preparation of procedural documents, an insufficient evidentiary basis in civil and commercial disputes, the weak use of pre-trial settlement mechanisms, and the unsatisfactory protection of companies' interests at the stage of the enforcement of judicial acts. As noted in the OECD report on access to justice as a foundation of the investment climate: «Access to justice for all is a fundamental foundation of democracy and a cornerstone of a strong social contract. It is an important component of inclusive and sustainable growth and of a favorable investment climate. It plays a key role in ensuring broader social outcomes, including people's ability to participate in the economy, maintain relationships, and care for their health».

The aim of the present study is a comprehensive analysis of the legal and practical

problems of the functioning of companies' legal departments in the Republic of Uzbekistan

in comparison with the legislation and practice of a number of foreign countries, as well as the development of scientifically grounded recommendations for improving the national regulation.

The tasks of the study include:

(a) determining the organizational and legal status of the legal department in a comparative perspective;

(b) identifying gaps in the system of professional qualification of corporate counsel;

(c) assessing the mechanisms of preventive legal protection, including the institution of due care;

(d) analyzing the quality of judicial protection and the problems of the enforcement of judicial acts;

(e) studying the application of alternative dispute-resolution methods and the norms of international commercial arbitration.

2. Methods

The methodological basis of the study is a combination of general-scientific and special legal methods. The comparative-legal method is applied as the key one in comparing the national legislation of Uzbekistan with the

law of the neighboring countries (the Russian Federation, the Republic of Kazakhstan), Europe (the Federal Republic of Germany, the French Republic) and Asia (the People's Republic of China). The formal-legal method is used in analyzing the text of normative-legal acts and identifying gaps and conflicts. The systemic-functional method makes it possible to consider the legal department as an integral institution in the interconnection of its organizational, personnel, methodological, and procedural components. The historical-legal method is applied in elucidating the evolution of the institutions of due care and in-house counsel.

The empirical basis of the study comprises the normative-legal acts of the Republic of Uzbekistan and foreign States, international treaties (in particular, the New York Convention of 1958 on the Recognition and Enforcement of Foreign Arbitral Awards and the UNCITRAL Model Law on International Commercial Arbitration of 1985 with the 2006 amendments), official publications of international professional organizations (ACC), as well as scholarly-doctrinal sources, in particular the works of Anthony T. Kronman of Yale Law School, Robert Eli Rosen of University of Miami School of Law, Benjamin W. Heineman, Jr. of Harvard Law School, Deborah A. DeMott of Duke University School of Law, Sung Hui Kim of UCLA School of Law, Hugh P. Gunz of University of Toronto, Sally P. Gunz of University of Waterloo, David B. Wilkins of Harvard Law School, Vikramaditya S. Khanna of University of Michigan, as well as Richard Moorhead, Steven Vaughan and Cristina Godinho and the works of I.S. Shitkina on corporate law, fundamental to post-Soviet civil-law doctrine .

The period of the study covers the legislation in force as of 20 May 2026.

3. Results

3.1. The organizational and legal status of the legal department: a comparative perspective. Lawyers are persons whose activity is directed both at ensuring legal protection and, at the same time, at upholding legality. As Anthony T. Kronman of Yale Law School rightly points out, «the ideals of the legal profession give lawyers an identity and thereby a meaningful place in the world». Lawyers may carry out their activity both as independent lawyers – as advocates or legal consultants – and as in-house lawyers in the legal departments of State bodies and organizations or of private companies. In this connection, Eve Spangler of Boston College, working in the sociology of professions, notes in her monograph that «one of the most significant changes in legal practice has been its transformation from a profession of independent practitioners into a profession of employees». It should be noted that, on the basis of interviews with lawyers in New England firms, private corporations, federal agencies, and a Legal Services Organization, E. Spangler showed that in-house lawyers did not form into an independent «new class», but turned out to be subordinated to bureaucracies on a par with other employees.

In the Republic of Uzbekistan, the legal status of the legal department is regulated chiefly by the Resolution of the President of 19 January 2017 No. PP-2733 «On Measures for the Radical Improvement of the Activity of the Legal Service» and the Resolution of the Cabinet of Ministers of 1 May 2017 No. 250. An essential feature of these acts is that they apply exclusively to State bodies and organizations, State enterprises, institutions, and business entities with State participation. For the private sector, the said norms are of a recommendatory rather than a mandatory character. In other words, the current legislation of Uzbekistan lacks a special normative-legal act defining the organizational and legal status, the scope of powers, the guarantees of independence, and the limits of professional liability of the corporate counsel (legal adviser) of a private company. In this connection, Veta T. Richardson – President and CEO of the Association of Corporate Counsel (ACC) and Adjunct Professor at the Georgetown University Law Center – notes that «nearly half of European countries currently do not recognize attorney-client privilege for corporate counsel, and many countries around the world follow a similar model… As business relationships become increasingly international, understanding that not all corporate counsel enjoy attorney-client privilege helps to avoid mistakes and misunderstandings that could nullify important protections and place a business at a significant disadvantage». In addition, as the former Senior Vice President and General Counsel of General Electric, Benjamin W. Heineman, Jr. of Harvard Law School, rightly notes: «The general counsel must have the character and independence to say what he thinks, the courage to defend his position in contentious groups and situations, the ability to see problems from different sides, to analyze risks, and to help confidently shape the company's vision. He must perform three fundamental roles – the technical expert, the wise counselor, and the accountable leader – and perform them simultaneously».

Such a gap leads to several negative consequences:

First, a corporate lawyer in the private sector does not have a status comparable to that of an advocate, which is regulated by the Law «On Advocacy» of 1996, or to that of the lawyer of a State organization who has undergone mandatory professional development.

Second, the norms of Resolution No. PP-2733 providing for the material incentivization of the lawyers of State bodies, organizations, and enterprises in the amount of 5% of the recovered sum (but not more than 50 times the basic accounting value (at the time of writing, the single basic accounting value is 412,000 Uzbek soums)) do not apply to the corporate counsel of private companies, which creates a disproportion in the system of professional motivation.

A comparison with foreign experience reveals other models of legal regulation. In the Federal Republic of Germany, with the adoption of the Law on the Reorganization of the Law of In-house Lawyers (Gesetz zur Neuordnung des Rechts der Syndikusanwälte), which entered into force on 1 January 2016, a corporate lawyer in an employment relationship with a company gained the possibility of registering as an in-house advocate (Syndikusrechtsanwalt). Upon meeting a number of conditions ensuring professional independence, such a lawyer simultaneously works for the company and holds the status of an advocate, with the right to specialized legal training and membership in certain pension schemes. This model is notable in that it resolves the classic problem of the «dual loyalty» of the in-house lawyer – the need to combine corporate duties with independent professional judgment. Professor Sung Hui Kim of the UCLA School of Law explains the acuteness of this problem by the socio-psychological position of the corporate lawyer, who acts «as mere employee, as faithful agent, and as team-player» and is, for that reason, predisposed to concessions in favor of management, even to the point of acquiescing in violations.

It should be noted that in Germany, unlike in Uzbekistan, the staff of a company's legal department do not have the power to protect the rights and legitimate interests of the company in the courts. This task is performed by advocates entitled to appear in the relevant courts. However, since court hearings are open, the staff of the legal department, like all citizens, may attend them. The legal department prepares for the advocates all the necessary documents and materials for drafting statements of claim (where the company is the claimant) or responses to a statement of claim (where the company is the defendant), together with the annexes thereto. The professional rights and duties of advocates are regulated by the Federal Lawyers' Act (Bundesrechtsanwaltsordnung), adopted on 1 August 1959. Substantial amendments were made to this Act, which has the force of law, by amendments of 2 September 1994.

A fundamentally different path was chosen by the French Republic, whose parliament, by Law No. 2026-122 of 23 February 2026, extended the institution of legal professional privilege to the written advice of corporate counsel (the new Article 58-1 of Law No. 71-1130 of 31 December 1971), which brought the French model closer to the Anglo-Saxon jurisdictions. It should be noted that analogous provisions, initially approved by the French parliament in 2023 as part of the Law on the Orientation and Programming of the Ministry of Justice for 2023–2027, were struck down by the Constitutional Council on 16 November 2023 on procedural grounds (decision No. 2023-855 DC); the constitutionality of the finally adopted law was confirmed by the decision of the Constitutional Council of 18 February 2026 No. 2026-900 DC. Before this reform, confidential communication between an in-house lawyer and a company's management in France enjoyed no legal protection, which placed French companies at a disadvantage compared with their Anglo-American competitors in international disputes. The Republic of Kazakhstan, carrying out phased legal reforms, is forming a new economic system based on market relations. In addressing these important tasks, a significant place is given to the legal work carried out by the legal department.

The Republic of Kazakhstan, with the adoption of the Law of 5 July 2018 No. 176-VI «On Advocacy and Legal Assistance», took a different path – it created the institution of the legal consultant, which is an independent professional figure distinct from both the advocate and the in-house legal adviser. The activity of legal consultants is regulated through a system of self-regulatory organizations – chambers of legal consultants based on mandatory membership, with mandatory attestation, professional-liability insurance, and a code of professional ethics. As of the end of 2022, there were 48 chambers of legal consultants operating in Kazakhstan, uniting 13,010 legal consultants – by comparison, the total number of advocates was 5,879. This model is notable for recognizing the market of legal services as a

self-regulated profession alongside the advocacy.

In the PRC, the Law on Lawyers of 1996 (as amended in 2007) proceeds from a different conceptual approach: the provision of legal services to outside clients in China is a monopoly of law firms and advocates, whereas a corporate lawyer on a company's staff is, by direct prescription of the law, not entitled to engage in external advocacy practice. This strict dichotomy has, as its consequence, the considerable development of private advocacy, to whose services Chinese companies are compelled to turn on all complex matters.

In the Russian Federation, on the contrary, there is no special legislation on in-house lawyers. A corporate lawyer is regarded as an ordinary employee subject to labor legislation, without special procedural privileges. This model, as the Russian researcher I.S. Shitkina notes in the fundamental textbook «Korporativnoe pravo» («Corporate Law») under her editorship, leads to a considerable concentration of the functions of the corporate lawyer: he simultaneously handles the registration of the legal entity, drafts the constituent documents, carries out contractual work, represents the company's interests in the courts, and interacts with State bodies. Such a concentration of duties, in the absence of a professional quality standard, creates a risk both for the company itself and for its counterparties. The multi-role nature of this position is objective: as Professor Deborah A. DeMott of the Duke University School of Law notes, the position of the general counsel «is often characterized as ambiguous», and not everyone holding this position manages to balance its multiple roles in a professionally and socially satisfactory manner.

Table No. 3.

COMPARATIVE OVERVIEW OF THE MODELS OF LEGAL REGULATION OF THE ORGANIZATIONAL AND LEGAL

STATUS OF A COMPANY'S LEGAL DEPARTMENT

Jurisdiction	Model of regulation / normative basis	Professional status of the in-house lawyer	Application to the private sector
Uzbekistan	Resolution of the President No. PP-2733 (19.01.2017); Resolution of the CM № 250 (01.05.2017)	Legal adviser (general category, LC of the RUz)	Public sector only; recommendatory status for the private sector
Russia	No special legislation; Art. 431.2 of the Civil Code of the RF «Representations as to Circumstances» (Federal Law No. 42-FZ of 08.03.2015)	Employee (Labor Code of the RF), without special procedural privileges	General norms of labor and civil law
Kazakhstan	Law of the RK No. 176-VI of 05.07.2018 «On Advocacy and Legal Assistance»	Legal consultant – an independent profession; chamber membership is mandatory	Applies to the private sector: 48 chambers, 13,010 consultants (2022)

Jurisdiction	Model of regulation / normative basis	Professional status of the in-house lawyer	Application to the private sector
Germany	Gesetz zur Neuordnung des Rechts der Syndikusanwälte of 21.12.2015 (entered into force 01.01.2016)	In-house advocate (Syndikusrechtsanwalt) – dual status	Applies to all employers if the conditions of independence are met
France	Law of No. 2026-122 of 23.02.2026 on the extension legal professional privilege to in-house counsel	Corporate lawyer with attorney-client privilege	Applies to the corporate sector
China	PRC Law on Lawyers of 15.05.1996 (as amended 28.10.2007)	Corporate lawyer – an employee; external advocacy practice is prohibited	Rigid dichotomy: the provision of legal services is a monopoly of law firms

3.2. Professional qualification and standards of activity. The second fundamental gap in the national regulation concerns the professional qualification of corporate counsel. In the Republic of Uzbekistan, advocacy is regulated by the Law «On Advocacy» of 1996 and by the Chamber of Advocates; the lawyers of State bodies undergo mandatory professional development at the Institute for the Professional Development and Retraining of Lawyers under the Ministry of Justice of the Republic of Uzbekistan every three years. For private-sector lawyers, however, a system of mandatory attestation, periodic retraining, and professional certification is not established by law. The Decree of the President of the Republic of Uzbekistan of 9 January 2019 No. UP-5618 «On the Radical Improvement of the System of Raising Legal Awareness and Legal Culture in Society» indicates in a general way the need to improve legal education and the system of retraining legal personnel, but it does not provide for special mechanisms applicable to the segment of corporate counsel. The official press release of the Association of Corporate Counsel of 28 January 2025 notes that «chief legal officers around the world are increasingly taking on strategic responsibility within their organizations and expanding their influence beyond the legal department… As companies face risks in the areas of data protection, cybersecurity, and regulatory compliance, chief legal officers are prioritizing the development of professional competencies and future skills, including business acumen, technological literacy, and industry expertise».

Foreign practice demonstrates a broad range of approaches to this issue. In addition to the already-mentioned experience of Kazakhstan (mandatory membership in a chamber of legal consultants, with attestation and liability insurance) and Germany (the dual status of the in-house advocate, with an obligation to observe the professional standards of the advocacy), the practice of the USA and the United Kingdom deserves mention, where corporate counsel must be admitted to advocacy practice in at least one jurisdiction (be admitted to the bar) and thereby fall under the professional supervision of the relevant bar association. In the USA, this segment is consolidated within the aforementioned ACC, which develops professional standards, conducts regular surveys, maintains a statistical database of in-house counsel, and carries out advocacy on issues key to the profession – from multi-

jurisdictional practice to the right to pro bono.

3.3. Preventive legal protection and the institution of due care. As Robert Eli Rosen of University of Miami School of Law rightly points out, «corporate lawyers have been continuously involved in decision-making – going beyond mere legal compliance alone – from finance to manufacturing, sales, returns, and litigation». The central thesis of Rosen's dissertation (1984), reissued in 2010, is that corporate lawyers are involved in corporate decision-making far beyond the checking of compliance with the law – from finance to manufacturing, sales, and litigation. Rosen criticizes the «ideology of independence» of the legal profession and shows that the quality of a lawyer's work depends on his understanding of the organizational context. The activity of corporate lawyers extends far beyond purely legal technique and legal activity proper, also requiring of them a deep knowledge in the areas of finance, taxation, IT and construction. In this connection, we refer to the view of Deborah A. DeMott of Duke University School of Law, who notes that «the position of the general counsel is often characterized as ambiguous; this indicates that not everyone who holds this position manages to balance its multiple roles in a professionally and socially acceptable manner».

The corporate lawyer appears in different guises, taking on various roles. In this connection, a representative of the American-Asian scholarly community, Sung Hui Kim of UCLA School of Law aptly observes that «the inside counsel finds himself in a situation where he acts as mere employee, as faithful agent, and as team-player».

The concept of «due care» (English: due diligence, literally «the necessary diligence») has a long history in the common law and was institutionalized in its modern form in the U.S. Securities Act of 1933, section 11(b)(3) of which affords a person a defense against liability for inaccurate statements of material facts if that person undertook a «reasonable investigation» and had grounds to believe that the statements were true. Initially applied to public offerings of securities, the concept of due diligence gradually spread to the sphere of mergers and acquisitions (M&A), contractual practice, and the vetting of counterparties in any business transactions.

In the Russian Federation, this institution received conceptual consolidation with the introduction of Article 431.2 of the Civil Code of the RF «Representations as to Circumstances» (Federal Law of 8 March 2015 No. 42-FZ), under which a party that relied on a counterparty's inaccurate representations is entitled to claim damages or to withdraw from the contract. Russian doctrine and judicial practice regard due diligence as a key instrument of preventive protection, especially in the acquisition of participatory interests and shares of companies, when the buyer assumes all the hidden liabilities of the business.

In the Republic of Uzbekistan, regulation close in meaning is enshrined in Article 15 of the Tax Code of 2019, which obliges the taxpayer to exercise due care in selecting a counterparty: to verify its tax registration, business reputation, the existence of a production base and workers, financial condition, and ability to perform its obligations under the transaction. However, the key problem is that there are no detailed subordinate acts and internal corporate regulations that would turn the general statutory norm into a genuinely working instrument of preventive protection. The legal departments of most private companies have no unified due-diligence regulation, which leads to dealings with «fly-by-night firms», the loss of tax benefits, and the imposition of additional obligations by the tax authorities.

As the Russian researcher O.A. Cheparina notes, «the principal directions of the legal department's activity in ensuring the legal protection of intellectual property are: taking the company's interests into account in the development of local acts in the sphere of safeguarding the intellectual property of the economic entity (determining the procedure for identifying, accounting for, and safeguarding the property); taking the interests of the economic entity into account with respect to the results of intellectual activity when concluding civil-law contracts; ensuring the rights of the economic entity to the results of intellectual activity created by employees in the course of performing their labor functions» .

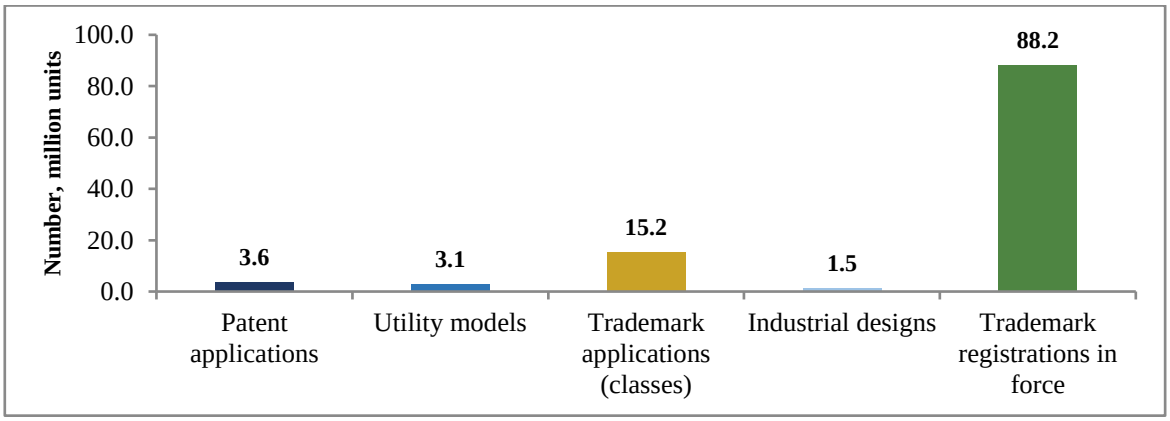
In the sphere of intellectual-property protection, the legislation of Uzbekistan (the Law «On Trademarks, Service Marks, and Appellations of Origin of Goods» of 2001; the Law «On Copyright and Related Rights» of 2006) is formed in accordance with international standards. Nevertheless, in practice the legal departments of many companies do not develop a systematic policy for the registration and protection of trademarks, trade names, software products, and know-how. In a number of cases, the economic courts have found claims for the protection of unregistered designations to be unfounded owing to the absence of an evidentiary basis. This situation confirms the thesis that the legal department must conduct continuous monitoring and the preventive registration of intellectual-property objects, rather than

react to infringements after the fact. All the more so since, as noted in the WIPO report on global intellectual-property activity for 2024, «this year's World Intellectual Property Indicators (WIPI) report demonstrates the continuing resilience of innovation activity even amid high interest rates and a global decline in venture capital. Patent applications grew for the fourth year in a row, reaching a record level of 3.55 million… Trademark filing activity declined to 11.6 million applications covering 15.2 million classes».

Histogram No. 4.

GLOBAL INDICATORS OF ACTIVITY

IN THE SPHERE OF INTELLECTUAL PROPERTY, 2023



A structured presentation of the key indicators of the IP sphere enables a company's legal department to orient itself in developing an internal corporate policy for the protection of the results of intellectual activity and in forming the budget of the legal function.

Table No. 5.

SUMMARY STATISTICAL DATA

OF WIPO ON GLOBAL ACTIVITY

IN THE SPHERE OF INTELLECTUAL PROPERTY

Object of intellectual property	Number of applications (2023)	Change relative to 2022	Registrations in force, 2023
Patent applications (inventions)	3.55 million	**+2,7 %**	18.6 million
Utility models	3.1 million	**+3,9 %**	–
Trademark applications (classes)	15.2 million	**-2,0 %**	88.2 million
Industrial designs	1.5 million	**+growth**	–
Top-5 offices (share of global patent applications)	**85 %**	+4 p.p. over 10 years	Concentration

3.4. Judicial protection: the quality of claim work and the problems of enforcing judicial acts. The Economic Procedure Code of the Republic of Uzbekistan of 2018, in Arts. 66–69, enshrines the duty of the parties to submit evidence in support of their claims. However, an analysis of judicial practice shows that the quality of statements of claim prepared by companies' legal departments often turns out to be below the requisite level: the legal basis of the claims is formulated without a precise indication of the norms of the law and the contract, the financial calculations are incomplete, the primary documents (consignment notes, acts, invoices) are submitted not in full, and evidence of the authenticity of signatures and seals is prepared only in the course of the proceedings. Such defects lead to the dismissal of claims that are well-founded on the merits or to a substantial reduction in the sums recovered.

The problem of the enforcement of judicial acts acquires particular acuteness. The Law of the Republic of Uzbekistan «On the Enforcement of Judicial Acts and Acts of Other Bodies», as well as the activity of the Bureau of Compulsory Enforcement under the Prosecutor General's Office of the Republic of Uzbekistan, create the legislative and institutional infrastructure for genuine recovery; however, the legal department of the recovering company itself must conduct active work with the State enforcement officers: timely filing applications for the search for the debtor's property, for the debiting of funds from bank accounts, and for the imposition of interim measures. The widespread practice of the legal department's «closing the case» immediately after obtaining a court decision turns the judicial act into a declaratory document. According to observations set out in analytical materials, analogous problems are characteristic of the post-Soviet jurisdictions as a whole – the passive role of lawyers at the enforcement stage remains a systemic weakness.

A study of the practice of the economic courts of the Republic of Uzbekistan reveals persistent systemic shortcomings in the activity of legal departments. A systematization of the defects makes it possible to identify both the most vulnerable elements of in-house lawyers' work and the procedural consequences for the claimant company.

Table No. 6.

SYSTEMIC DEFECTS IN THE CLAIM WORK OF COMPANIES' LEGAL DEPARTMENTS (BASED ON THE PRACTICE OF THE ECONOMIC COURTS OF THE REPUBLIC OF UZBEKISTAN)

Category of defect	Content of the defect	Procedural consequences
Legal qualification	Absence of a precise indication of the norms of the law and the clauses of the contract on which the claim is based	Dismissal of the claim on the merits or reclassification of the claims by the court
Financial calculations	Incompleteness and arithmetical errors in the calculations of debt, interest, and the penalty (neustoika)	Reduction in the amount of the sums recovered
Primary documentation	Submission of consignment notes, acts, and invoices not in full	Finding that the evidentiary basis is insufficient
Evidence of authenticity	Preparation of examinations of signatures and seals only in the course of the proceedings, not at the stage of filing the claim	Protraction of the proceedings, an increase in court costs
Enforcement of judicial acts	«Closing» the case immediately after receiving the decision; the absence of active work with the State enforcement officers	Turning the judicial act into a declaratory document

3.5. Alternative dispute-resolution methods and international commercial arbitration. The Law of the Republic of Uzbekistan of 3 July 2018 No. ZRU-482 «On Mediation» creates the legal basis for the use of mediation as a means of resolving commercial and other civil-law disputes. Article 148 of the Economic Procedure Code provides for a mandatory pre-trial (pre-claim) procedure for a number of categories of cases. However, in practice the pre-trial claim is often drawn up formally, without any expectation of a genuine response from the counterparty, and mediation is used in an insignificant percentage of disputes. This creates an excessive burden on the economic courts and leads to a loss of time and resources for the parties. In addition, other pre-trial settlement mechanisms are not established by law. In particular, the OECD, speaking of online dispute resolution and the expansion of ADR, notes that «dispute-resolution mechanisms can include negotiation, moderation, mediation, conciliation, ombudsman schemes, arbitration, and litigation. Starting from a broad understanding of ODR, this Framework focuses on processes and aspects of processes facilitated by digital technologies and data… Although ODR can be used within various dispute-resolution mechanisms, they form part of a continuum of ways of addressing legal and justice-related conflicts».

At the same time, the Republic of Uzbekistan is not a party to the United Nations Convention on International Settlement Agreements Resulting from Mediation (the Singapore Convention on Mediation). The Convention notes, in particular, that «This Convention applies to an agreement resulting from mediation and concluded in writing by parties to resolve a commercial dispute ('settlement agreement') which, at the time of its conclusion, is international». Uzbekistan's accession to this Convention would ensure the effectiveness and applicability of Art. 63(Dispute resolution) of the Law of Uzbekistan «On Investments and Investment Activity»,

which states that «in the event that the parties to an investment dispute prove unable to reach an agreed resolution of the dispute through negotiations, such a dispute shall be settled by means of mediation" . It should be noted that the application of this provision of the Law has not taken place in the almost 7 years since the Law's adoption, becauseforeign investors do not trust internal mediation mechanisms, and accession to the Singapore Convention on Mediation would improve the applicability of mediation to disputes arising for a foreign investor in light of the provisions of Art. 63 of the Law of Uzbekistan «On Investments and Investment Activity».

In the international dimension, a key role is played by the New York Convention of 1958, to which Uzbekistan acceded in 1996, and the UNCITRAL Model Law on International Commercial Arbitration, adopted by the United Nations Commission on International Trade Law on 21 June 1985 with the 2006 amendments. The UNCITRAL Model Law has been taken as the basis of national legislation in more than 80 States and ensures the harmonization of the procedure of international commercial arbitration, covering all stages – from the arbitration agreement to the recognition and enforcement of arbitral awards.

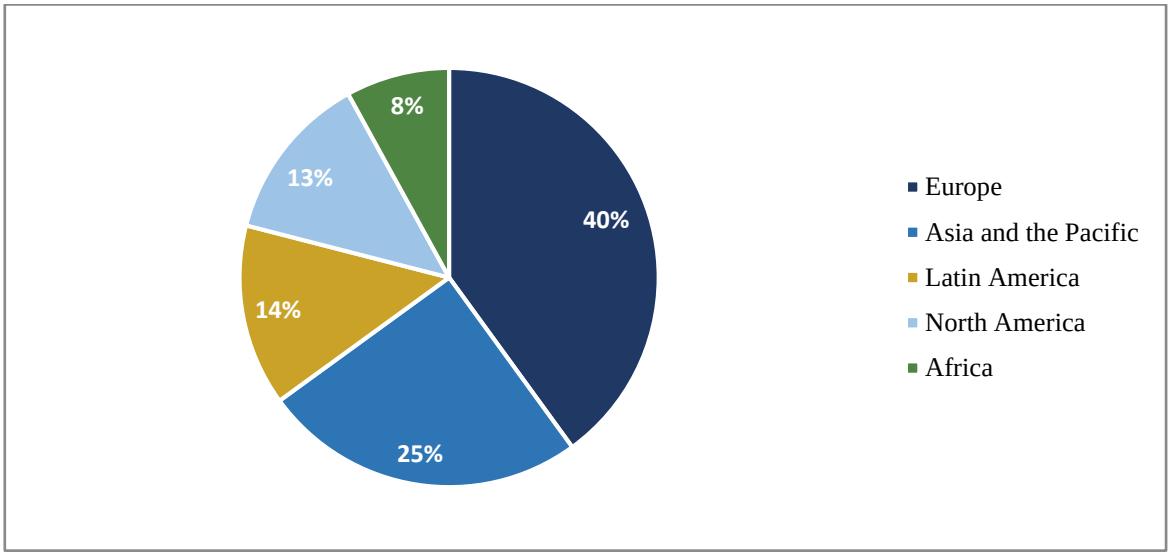
It should be noted that the number of international disputes grows from year to year. In particular, the official ICC communication of 26 June 2024 noted that «in 2023, the ICC registered a total of 890 new arbitration cases, which was the third-highest figure in its history. Of the 890 registered cases, 870 were administered under the ICC Arbitration Rules and 20 under the ICC Rules as appointing authority… The parties represented 141 jurisdictions… The aggregate amount in dispute in the new cases reached USD 53 billion».

In 2023, the International Court of Arbitration of the International Chamber of Commerce (ICC) registered 890 new cases – the third-best result in its history. The parties represented 141 jurisdictions of the world, demonstrating the global reach of the system of international commercial arbitration. The aggregate amount in dispute reached USD 53 billion. At the same time, Uzbekistan, like most of the countries of Central Asia, is practically not represented among the leading jurisdictions by the number of parties to ICC arbitration proceedings.

Chart No. 7.

GEOGRAPHICAL DISTRIBUTION OF THE PARTIES

IN ICC ARBITRATION PROCEEDINGS, 2023

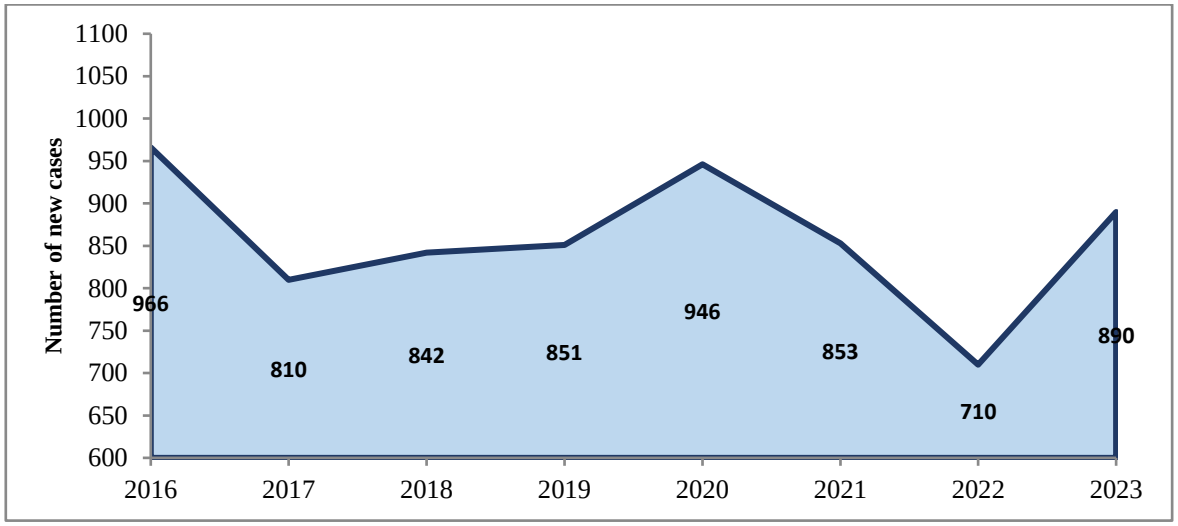


The dynamics of the parties' recourse to the International Court of Arbitration (ICC) for 2016–2023 demonstrate the resilience of international commercial arbitration even amid the COVID-19 pandemic and geopolitical upheavals. The minimum – 710 cases in 2022 – was more than offset by the recovery to 890 cases in 2023.

Chart No. 8.

DYNAMICS OF THE REGISTRATION

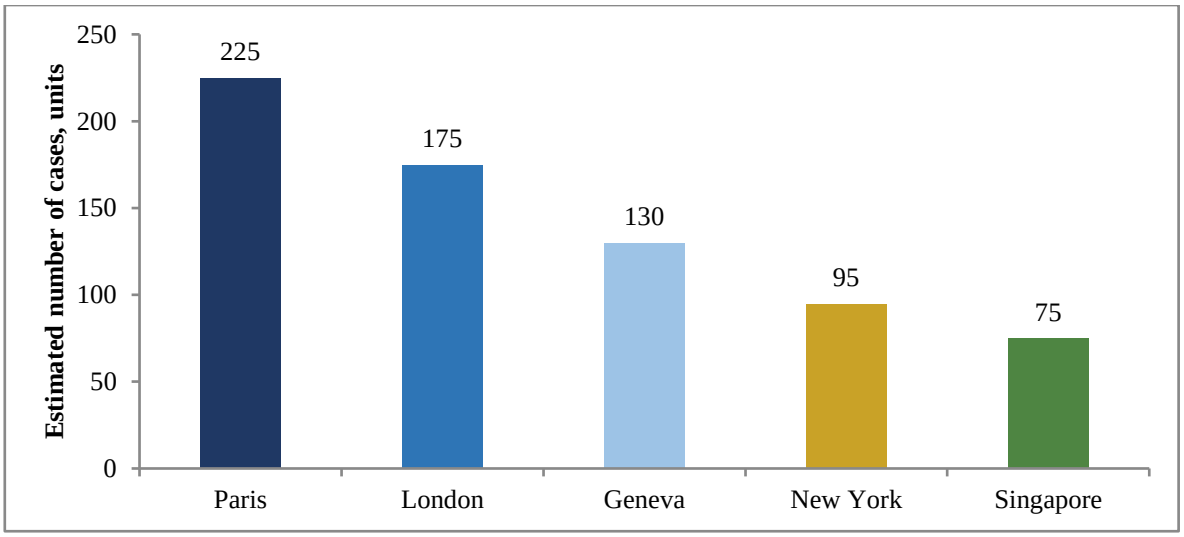
OF NEW ARBITRATION CASES AT THE ICC, 2016–2023



Notwithstanding the expansion of the geography of arbitration (116 cities in 63 countries), the concentration of cases by place of proceedings remains high: five cities – Paris, London, Geneva, New York, Singapore – are traditionally the key centers (seats) of international arbitration proceedings. This circumstance has practical significance in the formulation of arbitration clauses by in-house lawyers.

Histogram No. 9.

TOP-5 SEATS OF ICC INTERNATIONAL ARBITRATION IN 2023



In Uzbekistan, the Law «On International Commercial Arbitration» of 16 February 2021 No. ZRU-674 was adopted, and earlier, in 2018, the Tashkent International Arbitration Centre (TIAC) was created. However, a considerable part of the legal departments of national companies, when preparing foreign-trade contracts, has insufficient command of the skills of formulating arbitration clauses, choosing the applicable law (applicable law, applicable legislation, governing law, rules and regulations), correctly applying the INCOTERMS-2020 rules, and taking account of the norms of currency regulation. As a result, when a dispute arises with a foreign counterparty, an Uzbek company may find itself in a knowingly disadvantageous position in international arbitration.

4. Discussion

The comparative-legal analysis carried out makes it possible to identify several persistent regularities:

First, in most developed jurisdictions (Germany, France, the USA, the United Kingdom) the legislator expressly recognizes the special professional status of the corporate lawyer, whereas in Uzbekistan, Russia, and a number of other post-Soviet countries this segment of the legal profession is regulated only by the general norms of labor and civil law. The German model of the in-house advocate and the Kazakh model of the legal consultant represent two different but equally viable solutions to the problem of the professional identity of the in-house lawyer: either through integration into the existing advocacy while preserving the employment relationship, or through the creation of an independent self-regulated profession parallel to the advocacy.

The effectiveness of the legal department is determined not so much by the number of in-house lawyers as by the systemic structuring of its functions. Thomas Palay of University of Wisconsin and Marc Galanter of University of Wisconsin Law School (Madison) in their joint work trace the growth of the hundred largest U.S. law firms and describe the «promotion-to-partner tournament» as the key mechanism of the organization of labor in large firms. The authors analyze in detail the growth of corporate legal departments (in-house counsel) as a factor that changed the market of legal services and the relationship of the corporation with external firms. In this connection, Richard Moorhead, Steven Vaughan and Cristina Godinho note that «corporate lawyers are regularly required to be more commercial, proactive, and strategic, to be businessleaders rather than (just) lawyers». The book poses the question of the extent to which going beyond the lawyer's role conflicts with – or, on the contrary, is bound up with – being more ethical. In the same spirit, the Canadian scholars Hugh P. Gunz of University of Toronto and Sally P. Gunz of University of Waterloo, note that «corporatization has shifted the loyalty of in-house lawyers from the profession to the organization: when faced with client dilemmas, lawyers act rather as managers than choose the professionally correct answer». This idea is also supported by David B. Wilkins of Harvard Law School and Vikramaditya S. Khanna of the University of Michigan, who note that «globalization and the arrival of foreign investment have transformed the role of in-house counsel in Indian companies – from a technical executor of management's orders into a strategic partner responsible for legal-risk management and corporate governance».

Diagram No. 10.

FUNCTIONAL MODEL OF A COMPANY'S LEGAL DEPARTMENT:

FIVE KEY DIRECTIONS

Direction	Key functions
Preventive protection	Due diligence, vetting of counterparties, management of legal risks
Contractual work	Development of standard forms, legal review of contracts, application of INCOTERMS-2020
Protection of intellectual property	Registration of trademarks, patents, copyrights, protection of know-how
Judicial protection	Claim work, representation in the courts, enforcement proceedings
Arbitration and mediation	Arbitration clauses, ADR, international commercial arbitration

The above diagram summarizes five equally significant directions of the legal department's activity, each of

which requires its own methodological and regulatory support: preventive protection, contractual work, the protection of intellectual property, judicial protection, and arbitration and mediation.

Second, a tendency towards the extension of the protection of attorney-client privilege to corporate counsel is evident. The French reform, completed with the adoption of Law No. 2026-122 of 23 February 2026, marks the movement of continental-European law towards Anglo-Saxon standards. For Uzbekistan, this issue will inevitably acquire relevance with the deepening of international integration and the attraction of foreign investment.

Third, in international practice, preventive legal protection (due diligence, the continuous monitoring of counterparties, a registration policy with respect to intellectual property) is regarded as a key function of the legal department – equal in significance to judicial representation and possibly exceeding it. Russian and Uzbek legislation (Art. 431.2 of the Civil Code of the RF and Art. 15 of the Tax Code of the RUz) create a legal basis for this, but the internal corporate regulations and standards of activity of legal departments have yet to be developed.

Fourth, the ACC statistics, showing the growth of the number of in-house lawyers in the USA by 87% over the period 2008–2024, reflect a global shift of emphasis: companies give preference to in-house lawyers over external consulting for the sake of cost control, responsiveness, and a deeper knowledge of business processes. This tendency requires the development of adequate regulation of the quality of the activity of internal legal departments. Finally, the analysis carried out confirms that the effectiveness of the legal department is determined not so much by the number of in-house lawyers as by the systemic structuring of its functions.

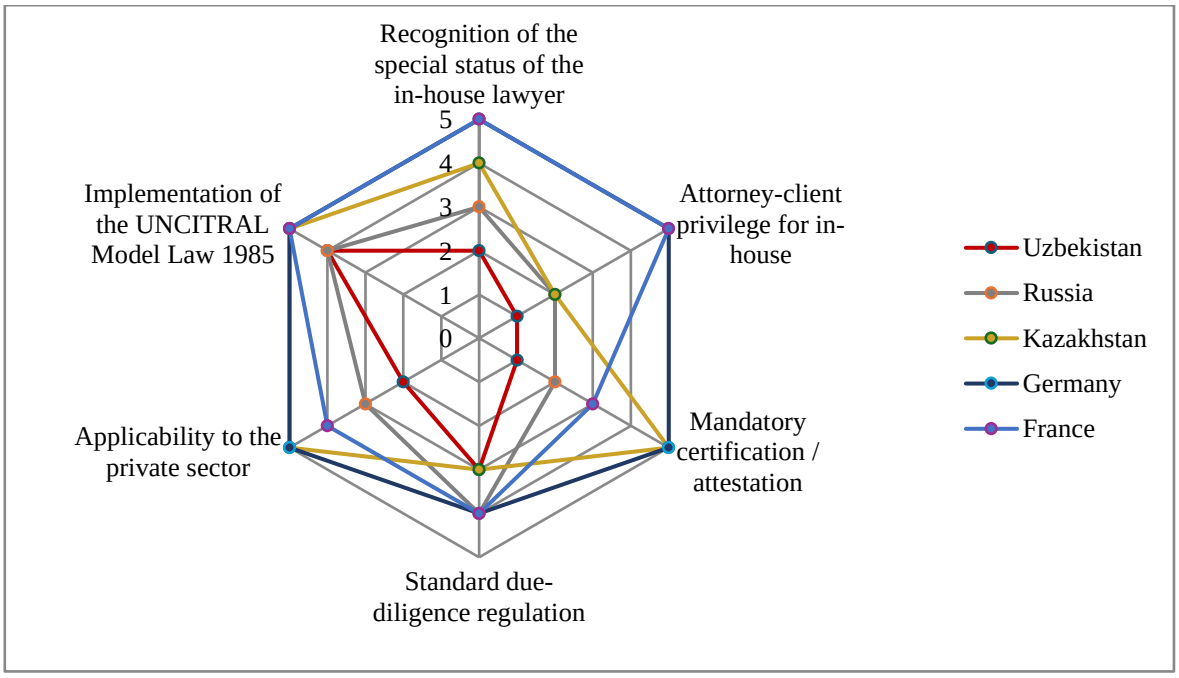
5. Conclusion

The conducted study has shown that the set of problems characteristic of the activity of companies' legal departments in the Republic of Uzbekistan – the absence of special regulation of the organizational and legal status of the corporate lawyer, the unregulated state of the system of professional attestation and professional development, the weakness of preventive protection mechanisms, the insufficient quality of claim and pre-claim work, the low level of use of alternative dispute-resolution methods and international-arbitration norms – is systemic in nature and requires a comprehensive solution. The systemic nature of the identified problems means that their resolution cannot be achieved by pinpoint measures within a single normative act: a coordinated improvement of the legislation on legal departments, of the professional standards of corporate counsel, and of the enforcement practice of the economic courts and compulsory-enforcement bodies is required. At the same time, the system-forming element is the law-guaranteed professional status of the corporate lawyer: it is precisely this that creates the institutional support for independent professional judgment, without which the preventive function of the legal department – compliance, due diligence, risk assessment – risks turning into a formality subordinated to the momentary interests of management.

For the purposes of the present study, the radar (spider) chart presents the author's point-based assessment of the coverage of six directions for reforming the legislation on legal departments in five jurisdictions. The leading positions are occupied by Germany and France, which demonstrate a mature institutional model; Kazakhstan demonstrates the most consistent reform among the post-Soviet countries; the Russian Federation and the Republic of Uzbekistan retain a considerable regulatory gap, which determines the content of the recommendations formulated in the main body of the article.

Chart No. 11.

COMPARATIVE COVERAGE OF REFORMS OF THE ACTIVITY OF LEGAL DEPARTMENTS (EXPERT POINT-BASED ASSESSMENT)



A comparison with foreign experience (Germany, France, Kazakhstan, China, the Russian Federation) and international instruments (the UNCITRAL Model Law of 1985, the New York Convention of 1958) makes it possible to formulate a number of practical recommendations for the Republic of Uzbekistan.

First, it appears advisable to develop and adopt a special normative-legal act (a law or a decree of the President) defining the organizational and legal status of the legal department in companies irrespective of the form of ownership. A possible alternative may be the extension of the operation of the Resolution of the President of the Republic of Uzbekistan of 19 January 2017 No. PP-2733 to business entities with a private form of ownership, with corresponding adaptation. As model solutions, the German concept of the in-house advocate and the Kazakh model of the chamber of legal consultants may be considered. Such an act must define the scope of powers, the guarantees of independence, and the limits of professional liability of the corporate lawyer of a private company, eliminating the gap whereby the relevant regulation (Resolution No. PP-2733 and Resolution of the Cabinet of Ministers No. 250) applies only to the public sector.

Second, a system of mandatory professional attestation and periodic professional development of corporate counsel should be introduced, with the possible certification of particular specializations (contractual work, corporate law, international arbitration, personal-data protection, intellectual-property protection). It is advisable to link the attestation system with the already-operating professional-development infrastructure (the Institute for the Professional Development and Retraining of Lawyers under the Ministry of Justice), extending it, with the necessary adaptation, to the corporate segment of the profession.

Third, methodological recommendations (standard regulations) for the conduct by the legal department of due diligence of counterparties, implementing the requirements of Art. 15 of the Tax Code and the provisions of the Civil Code on the good faith of participants in civil-law transactions, should be developed at the level of the Ministry of Justice and the Ministry of Economy and Finance. Standard due-diligence regulations will make it possible to translate the general norm of Article 15 of the Tax Code into a

Fourth, in order to improve the quality of judicial protection and the effectiveness of enforcement proceedings, professional standards should be developed for the preparation of statements of claim, responses, and other procedural documents in the economic courts, based on the requirements of Articles 66–69 of the Economic Procedure Code. Such standards must cover not only the preparation of procedural documents but also the active work of the legal department at the stage of the enforcement of judicial acts.

Fifth, in the sphere of alternative dispute-resolution methods, the development of a system of incentives for the genuine use of mediation in accordance with the Law

«On Mediation» is required – including through the introduction of procedural benefits for the parties that have conscientiously undergone the mediation procedure, and the expansion of the categories of disputes subject to mandatory pre-trial settlement. The effectiveness of mediation in disputes with foreign investors would be substantially enhanced by the accession of the Republic of Uzbekistan to the Singapore Convention on Mediation of 2019, which would ensure the cross-border enforceability of mediation settlement agreements and the applicability of Article 63 of the Law «On Investments and Investment Activity».

Sixth, for corporate counsel working with foreign-trade contracts, programs of special training in international commercial arbitration, applicable law, INCOTERMS, currency regulation, and cross-border disputes should be developed, based on the provisions of the UNCITRAL Model Law of 1985 and the New York Convention of 1958, to which Uzbekistan acceded in 1996 and of which it has been a party since 1996. The development of the competencies of corporate counsel in the sphere of international arbitration is especially significant in conditions where Uzbek companies are practically not represented among the parties to proceedings of the leading arbitration institutions, and most international disputes are heard in a limited number of arbitration centers (Paris, London, Geneva, New York, Singapore).

The final table summarizes the six principal directions of improvement formulated in the main part of the article. Each recommendation is provided with an indication of a specific foreign analogue or model practice that may be used in the preparation of a national normative-legal act.

Table No. 12.

SYSTEMATIZED RECOMMENDATIONS

FOR IMPROVING THE NATIONAL REGULATION OF THE ACTIVITY OF COMPANIES' LEGAL DEPARTMENTS

IN THE REPUBLIC OF UZBEKISTAN

№	Direction of reform	Content of the recommendation	Foreign analogue
1	**Organizational and legal status**	Amending the Resolution of the PresidentPP-2733 to establish the status of the legal department irrespective of the enterprises' form of ownership	Germany: Syndikusrechtsanwalt; Kazakhstan: chambers of legal consultants
2	**Professional qualification**	Introducing mandatory attestation and periodic professional development of corporate counsel; certification by specialization	Kazakhstan: mandatory chamber membership with attestation

№	Direction of reform	Content of the recommendation	Foreign analogue
3	**Preventive protection (due diligence)**	Development by the Ministry of Justice and the Ministry of Economy and Finance of methodological recommendations and standard due-diligence regulations for counterparties	Russia: Art.. 431.2 Civil Code of the RF; USA: Securities Act 1933 §11(b)(3)
4	**Quality of judicial protection**	Development of professional standards of claim work in the economic courts in accordance with Arts. 66–69 of the EPC of the RUz	ACC professional standards (USA)
5	**Alternative dispute resolution (ADR)**	Development of incentives for the use of mediation (Law of the RUz No. ZRU-482 of 03.07.2018); accession to the Singapore Convention of 2019	OECD Online Dispute Resolution Framework, 2024 Singapore Convention of 2019
6	**International arbitration**	Special training of in-house lawyers in the UNCITRAL Model Law of 1985, the New York Convention of 1958, INCOTERMS-2020	Practice of the leading international arbitration centers (ICC and others)

The implementation of the recommendations set out in this research-and-practice article will contribute to improving the quality of the legal protection of Uzbek companies, the predictability of the business environment, and, ultimately, the investment attractiveness of the country.

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