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Participation of Lawyers in the Resolution of Commercial Disputes in Developed Foreign Countries: A Comparative Analysis (The Case of the United States, Europe and Asian Countries)

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Abstract: This article provides a comparative legal analysis of the procedural status, powers, and practical role of lawyers in resolving commercial disputes in developed foreign countries. The study examines the experience of the United States and the United Kingdom as representatives of the Anglo-Saxon legal system, Germany and France as representatives of the continental legal system, as well as Japan and Singapore in the Asian region.

The analysis demonstrates that the role of lawyers in modern commercial litigation has evolved from mere procedural representation to dispute management, strategic planning, and the organization of pre-trial settlements. Based on the experience of these jurisdictions, the article develops scientific and practical proposals for improving the national legislation of Uzbekistan.

Keywords: Commercial disputes, lawyer, procedural status, adversarial principle, discovery, mandatory representation, litigation costs, pre-action protocol, mediation, arbitration, digitalization

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1. Introduction

The rapid development of international trade and economic cooperation has led to a significant increase in the number of commercial disputes worldwide. In modern legal systems, the effective resolution of such disputes largely depends on the professional activity of lawyers who represent the interests of the parties and ensure procedural fairness. In developed countries, lawyers perform not only the function of legal representation but also act as strategic advisors, negotiators, and mediators during both pre-trial and judicial proceedings.

Different legal systems define the procedural role and authority of lawyers in different ways. In common law countries such as the United States and the United Kingdom, the adversarial principle dominates, and lawyers play a leading role in presenting evidence and shaping litigation strategies [1]. In continental legal systems such as Germany and France, judges have a more active role in the proceedings, while lawyers cooperate with the court in presenting legal arguments and evidence [2].

In Asian countries such as Japan and Singapore, commercial dispute resolution often combines Western legal procedures with local traditions emphasizing negotiation and mediation [3]. The study of these models provides valuable insights for improving the legal framework governing commercial dispute resolution in other jurisdictions.

The purpose of this study is to conduct a comparative analysis of the role and procedural status of lawyers in commercial dispute resolution in developed foreign countries and to identify best practices that may contribute to the improvement of national legislation[4].

In developed foreign countries, the system of resolving commercial disputes is closely linked to the procedural status and level of activity of lawyers. Although the role and powers of lawyers differ across legal systems, in all of them lawyers act as key institutional participants in modern commercial justice[5].

2. Methodology

This study employs a **comparative legal research method** to examine the procedural role and participation of lawyers in the resolution of commercial disputes in developed foreign countries. Comparative analysis makes it possible to identify similarities and differences between legal systems and to determine the most effective legal practices that can be applied in improving national legislation.

The research is based on the analysis of **legislative acts, procedural rules, and scholarly literature** regulating the participation of lawyers in commercial litigation. In particular, the study examines the **Federal Rules of Civil Procedure of the United States, the Civil Procedure Rules of the United Kingdom, the German Zivilprozessordnung (ZPO), the French Code of Civil Procedure, the Japanese Code of Civil Procedure, and the procedural regulations of the Singapore International Commercial Court (SICC)**.

The methodological framework includes several research approaches.

First, the **comparative legal method** was applied to analyze the procedural status, powers, and functions of lawyers within different legal traditions, including the **Anglo-Saxon (Common Law), continental (civil law), and Asian mixed legal systems**.

Second, the **normative-legal analysis method** was used to examine the provisions of procedural legislation regulating lawyer participation in commercial disputes, including discovery procedures, rules of representation, and mechanisms of dispute settlement.

Third, the **systemic and analytical approach** was employed to evaluate the practical role of lawyers in litigation processes such as evidence collection, legal strategy development, negotiation, and mediation.

Additionally, the research applies **descriptive and analytical methods** to assess how lawyers contribute to modern dispute resolution mechanisms, including **pre-trial negotiations, mediation, arbitration, and digital court procedures**.

Through these methodological approaches, the study identifies the main models of lawyer participation in commercial dispute resolution and evaluates their effectiveness. The findings of the research provide a basis for developing recommendations aimed at improving the legal regulation of advocacy and commercial dispute resolution in national legal systems.

In the experience of the United States, which belongs to the Anglo-Saxon legal system, the adversarial principle prevails. In this model, court proceedings are aimed at establishing the truth through legal confrontation between the parties, while the judge primarily supervises compliance with procedural rules. In commercial disputes, lawyers possess particularly broad powers. Under the Federal Rules of Civil Procedure, the “discovery” stage allows for pre-trial disclosure of evidence. Lawyers may conduct depositions outside the courtroom, request extensive corporate documentation, and analyze electronic evidence. This transforms the lawyer into not only a representative but also, in a certain sense, a private investigator and strategist. Furthermore, the contingency fee system makes lawyers financially interested in the outcome of the case, resulting in many commercial disputes being resolved through negotiations before reaching trial [6].

In the United Kingdom, the adversarial principle also dominates, though significant emphasis is placed on pre-trial dispute resolution. Historically, there has been a professional division between solicitors and barristers: the former prepare the case and work with clients, while the latter conduct oral advocacy in court. In commercial disputes, the pre-action protocol plays an important role, requiring parties to attempt settlement before filing a claim. In addition, the “loser pays” principle is strictly applied

in relation to litigation costs. This mechanism discourages unfounded claims and strengthens procedural discipline in commercial litigation[7].

In Germany, which represents the continental legal system, the judge plays a more active role, and the lawyer cooperates closely with the court. According to the Zivilprozessordnung (ZPO), lawyer participation is mandatory in higher courts (Anwaltszwang). This ensures professional representation and enhances the quality of proceedings. Moreover, under the Rechtsanwaltsvergütungsgesetz (RVG), lawyers' fees are calculated according to statutory tariffs. A distinctive feature of the German model is that the judge may indicate procedural deficiencies to the lawyer, forming a cooperative model aimed at establishing the truth[8].

In France, commercial disputes are examined by the Tribunal de commerce.

Judges in these courts are not professional lawyers but are elected from among businesspersons. Consequently, the role of the lawyer becomes even more significant: on the one hand, as an interpreter of complex legal norms; on the other, as a guarantor of procedural compliance. Digitalization is also well developed in French legal practice. Through the Réseau Privé Virtuel des Avocats (RPVA) system, procedural documents are exchanged electronically [9].

In the Asian region, the resolution of commercial disputes reflects a synthesis of local traditions and Western legal mechanisms. In Japan, recourse to court is often considered a last resort. Lawyers (bengoshi) primarily strive to resolve disputes through pre-trial settlement. Social consensus and the preservation of relationships are highly valued; therefore, mediation and negotiations are preferred methods[10].

Singapore has emerged as a leading international center for commercial litigation and arbitration in Asia [11]. The Singapore International Commercial Court (SICC) and the Singapore International Arbitration Centre (SIAC) operate in accordance with international standards, combining Common Law principles with Asian diplomatic culture. Lawyers maintain a high professional standard, and in certain categories of cases, foreign lawyers are permitted to participate[12].

Overall, the comparative analysis shows that in the Anglo-Saxon system, lawyers function as leading actors in court proceedings; in the continental system, they operate as professional representatives cooperating with judges; while in Asian countries, lawyers are often recognized as mediators and strategists [13]. In all systems, the role of the lawyer has expanded beyond traditional procedural representation to include dispute management, negotiation, and economic risk assessment [14].

3. Result and Discussion

The comparative analysis demonstrates that the procedural role of lawyers varies significantly across different legal systems but remains essential in all of them.

In the United States, the adversarial model grants lawyers extensive powers in commercial litigation. The discovery procedure allows lawyers to collect and examine evidence before trial, including depositions and requests for corporate documents [15]. This system encourages thorough preparation and often leads to settlements before trial.

In the United Kingdom, lawyers play a central role in both litigation and pre-trial dispute resolution. The pre-action protocol obliges parties to attempt settlement before filing a lawsuit, thereby promoting efficiency and reducing court workload. The "loser pays" rule regarding litigation costs also encourages responsible legal conduct.

In Germany, the participation of lawyers is mandatory in higher courts under the principle of *Anwaltszwang*. This ensures professional legal representation and increases the quality of judicial proceedings. Unlike the adversarial model, German judges may actively guide the process and draw attention to procedural issues.

In France, commercial disputes are often resolved in specialized commercial courts where judges are elected from the business community. Consequently, lawyers play an important role in interpreting legal norms and ensuring procedural compliance. The use of electronic communication systems such as RPVA has also enhanced the efficiency of legal practice.

In Japan and Singapore, commercial dispute resolution emphasizes mediation and

arbitration. Lawyers frequently act as negotiators and facilitators of settlement rather than purely courtroom advocates.

Overall, the findings indicate that modern lawyers increasingly perform complex roles that include strategic planning, negotiation, and dispute management. These developments reflect the growing complexity of international commercial relations.

4. Conclusion

The experience of developed foreign countries demonstrates the crucial importance of lawyers in the effective resolution of commercial disputes. In modern conditions, a lawyer is not merely a courtroom advocate but also a strategic dispute manager, organizer of pre-trial settlements, analyst of economic risks, and a highly qualified professional capable of working in a digital environment. Therefore, enhancing the efficiency of commercial justice is inseparably linked to strengthening the institution of advocacy, expanding its procedural independence, and promoting professional specialization.

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