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Regulatory Challenges of Anglo-Saxon Corporate Dispute Resolution Policy in Kazakhstan

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ABSTRACT

In recent years, Kazakhstan has incorporated selected elements of the Anglo-Saxon legal system as part of efforts to modernize its legal framework and create a favorable business environment. One of the most prominent manifestations of this approach is the establishment of the Astana International Financial Center (AIFC), which applies legal standards derived from common law traditions. This study aims to analyze the challenges associated with adapting common law mechanisms for the resolution of corporate disputes within Kazakhstan's predominantly civil law, based legal system. The research employs a normative legal method with statutory and comparative law approaches to examine the fundamental principles governing corporate legal relations. The discussion focuses on three main aspects: (i) the implementation of common law practices and mechanisms in Kazakhstan as part of the process of global legal convergence; (ii) the application of common law standards and procedures in jurisdictions with civil law and mixed legal systems through comparative analysis, particularly in France and the United Arab Emirates; and (iii) the compatibility of common law elements with Kazakhstan's legal framework, including the normative and institutional challenges affecting corporate dispute resolution. The findings indicate that although elements of case law have been increasingly integrated into corporate dispute resolution in non-common law jurisdictions, their application in Kazakhstan remains limited and is largely confined to the jurisdiction of the AIFC Court. Nevertheless, the emerging practice of this court demonstrates a gradual process of integration that holds promising prospects for the development of corporate dispute resolution in Kazakhstan.

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1. Introduction

Since gaining independence, the Republic of Kazakhstan has undergone substantial legal and institutional reforms aimed at establishing a market-oriented economy, strengthening corporate governance, and enhancing the country's attractiveness to foreign investment.[1]

[1] Alikhan Baimenov, Maxut Uteshev and Gulimzhan Suleimenova, 'Kazakhstan: Progress and Its Paradoxes', in *Public Service Evolution in the 15 Post-Soviet Countries: Diversity in Transformation*, ed. by

These reforms have led to the formation of a comprehensive legal framework regulating business activities and corporate entities as distinct organisational and legal forms of juridical persons.[2] Within this framework, corporate law plays a central role in structuring economic relations, safeguarding investors' rights, and ensuring the stability of commercial transactions.[3] As Kazakhstan continues to integrate into the global economic system, the effectiveness of corporate dispute resolution mechanisms has become an increasingly important factor in ensuring legal certainty and sustaining economic development.[4]

The growing complexity of corporate relations, particularly in the context of cross-border investments and multinational business operations, has significantly increased the number and intensity of corporate disputes.[5] Divergences between national legal systems, especially between civil law and common law traditions, create structural challenges in regulating corporate conflicts and ensuring predictability in dispute resolution.[6] In Kazakhstan, imperfections in the regulation of corporate legal relations, coupled with difficulties in implementing international best practices and a limited pool of specialised legal professionals, often lead to disputes escalating into litigation.[7] These disputes place additional pressure on the judicial system and negatively affect the investment climate by increasing legal uncertainty, transaction costs, and business risks.[8] Consequently, the development of transparent, predictable, and efficient mechanisms for resolving corporate disputes is a crucial element of Kazakhstan's broader legal and economic reform agenda.[9]

Despite the introduction of procedural rules addressing corporate disputes, the substantive foundations of corporate law in Kazakhstan remain insufficiently developed.[10] While the concept of a "corporate dispute" has been recognised at the legislative level, significant doctrinal gaps persist. In particular, the absence of clear legislative definitions for fundamental concepts such as "corporation" and "conglomerate" complicates the

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Alikhan Baimenov and Panos Liverakos (Singapore: Springer Nature Singapore, 2022), pp. 199–249 https://doi.org/10.1007/978-981-16-2462-9_7

[2] E K Saparbekova and A B Smanova, 'Central Asian Legal System and Civil Society: Implications of Governance, Social Transformation, and Reform', *BULLETIN of L.N. Gumilyov Eurasian National University Law Series*, 150.1 (2025), 27–36 https://doi.org/10.32523/2616-6844-2025-150-1-27-36

[3] E Allan Lind and others, 'Individual and Corporate Dispute Resolution: Using Procedural Fairness as a Decision Heuristic', *Administrative Science Quarterly*, 38.2 (1993), 224–51 https://doi.org/https://doi.org/10.2307/2393412 [accessed27 January 2026].

[4] David B Lipsky, Ariel C Avgar and J Ryan Lamare, 'Organizational Conflict Resolution and Strategic Choice: Evidence from a Survey of Fortune 1000 Firms', *ILR Review*, 73.2 (2020), 431–55 https://doi.org/10.1177/0019793919870169

[5] Vera Kapatsina, Saida Akimbekova and Gulmira Nurtayeva, 'Mediation as a Way to Resolve Corporate Disputes', *Revista Brasileira de Estudos Políticos*, 127.2 (2023) <https://doi.org/10.9732/2023.V127.1069>.

[6] Maximilian J L Schormair and Lara M Gerlach, 'Corporate Remediation of Human Rights Violations: A Restorative Justice Framework', *Journal of Business Ethics*, 167.3 (2020), 475–93 https://doi.org/10.1007/s10551-019-04147-2

[7] Florence Guillaume and Sven Riva, 'Chapter 20 Blockchain Dispute Resolution for Decentralized Autonomous Organizations: The Rise of Decentralized Autonomous Justice' (Leiden, The Netherlands: Brill | Nijhoff, 2023), pp. 549–641 https://doi.org/10.1163/9789004514850_022

[8] Andrea Bonomi, Matthias Lehmann and Shaheeza Lalani, *Blockchain and Private International Law* (Leiden, The Netherlands: Brill | Nijhoff, 2023) https://doi.org/10.1163/9789004514850

[9] M Zhaskairat, 'The Role of Family Mediation in Conflict Resolution : International Experience And', 2023.119 (2025), 105–14 https://doi.org/https://doi.org/10.31489/2025l3/105-114

[10] Lind and others.

consistent interpretation and application of legal norms.[11] This normative ambiguity weakens the protection of shareholders' rights, undermines the effectiveness of judicial and administrative remedies, and creates obstacles to resolving disputes involving corporate governance, ownership structures, and control mechanisms.[12] As a result, corporate dispute resolution remains one of the most problematic areas within Kazakhstan's legal system, directly influencing the country's investment appeal and institutional credibility.[13]

A major institutional development in this context is the establishment of the Astana International Financial Center (AIFC) in 2018.[14] Designed as a special economic zone to attract foreign investment and promote financial and business services, the AIFC operates under a legal regime based on common law principles, which fundamentally differs from Kazakhstan's traditional civil law system.[15] The AIFC Court functions as an independent judicial body authorised to resolve disputes involving AIFC participants, including corporate and investment-related conflicts. At the highest political level, the AIFC has been presented as a strategic instrument for strengthening judicial independence, improving legal certainty, and integrating international legal standards into the national legal system.

However, the coexistence of a common law–based dispute resolution mechanism within a predominantly civil law jurisdiction raises complex legal and institutional challenges.[16] While the AIFC Court offers a transparent and predictable forum for resolving corporate disputes, its operation reveals significant issues related to normative compatibility, institutional coordination, and doctrinal coherence. These challenges extend beyond procedural matters and concern fundamental questions regarding the role of judicial precedent, the adaptability of common law mechanisms, and the interaction between parallel legal regimes within a single national legal system.[17] The lack of a comprehensive and coherent regulatory framework governing corporate legal relations further exacerbates these difficulties, limiting the broader application of common law principles beyond the jurisdiction of the AIFC Court.[18]

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[11] Zhanna Khamzina, Yermek Buribayev and Yerazak Tileubergenov, 'Institutionalizing Integrity: Rethinking Ethical and Cultural Standards in Kazakhstan's Civil Service', *Frontiers in Political Science*, Volume 7-2025 (2025) https://doi.org/10.3389/fpos.2025.1573608

[12] Ayagoz Khamzina and others, 'Critical Analysis of Tariff Policy and Legislative Measures for Renewable Energy Development: Medium-Term Challenges and Prospects of Kazakhstan', *ES Energy and Environment*, 28 (2025), 1560 https://doi.org/10.30919/ee1560

[13] Ermek Abdrasulov and others, 'Problematic Aspects of the Selection and Appointment of Judges in the Republic of Kazakhstan', *Journal of Human Rights and Social Work*, 9.4 (2024), 630–39 https://doi.org/10.1007/s41134-024-00341-z

[14] Baimoldayeva Alina and Zia-ud-din Malik, 'THE ESTABLISHMENT OF THE COURT OF ASTANA', 29.43 (2022), 19–41 https://doi.org/10.2478/jles-2022-0002

[15] Madi Kenzhaliyev, 'Perspectives of the Court of the Astana International Financial Centre: Potenatial to Transform the Central Asian Legal Landscape', *Asian Journal of Comparative Law*, 19.1 (2024), 160–179 https://doi.org/10.1017/asjcl.2023.37

[16] Tajudeen Sanni, 'Original Article Injustice in Indonesia's Legal Protection Framework for Outsourced Workers', 2025 https://doi.org/https://doi.org/10.53955/contrarius.v1i2.210

[17] Anis Mashdurohatun and Abdul Hanis Embong, 'Legal Protection of Coastal Community Land Tenure Rights', 178 (2026) https://doi.org/https://doi.org/10.53955/contrarius.v1i2.209

[18] Kairat Moldashev, Birzhan Sahimbekov and Sanat Kozhakhmet, 'The Institutional Logics of Research Commercialisation: Reform, Misalignment, and Hybridisation', *Social Sciences & Humanities Open*, 12 (2025), 102000 https://doi.org/https://doi.org/10.1016/j.ssaho.2025.102000

Contemporary scholarship on corporate dispute resolution from a comparative legal perspective addresses a wide range of thematic areas. Several studies have examined mediation and arbitration as mechanisms for resolving corporate and tax disputes in European jurisdictions, highlighting their efficiency and flexibility compared to traditional litigation.[19] Other research has focused on jurisdictional boundaries in intellectual property–related corporate conflicts, the application of case law principles in trade and commercial disputes within the European Union, and the strategies employed by multinational corporations to ensure regulatory compliance and minimise litigation risks. Scholars have also explored the causes of corporate disputes, the factors influencing dispute resolution outcomes, and the effectiveness of alternative dispute resolution mechanisms across specific industrial sectors.[20]

Several scholars have examined corporate dispute resolution and related procedural mechanisms in Kazakhstan and comparative jurisdictions from different perspectives. Baikenzhina and Juchnevicius (2024) conducted a comparative analysis of alternative dispute resolution mechanisms in corporate disputes in Kazakhstan and the United States, focusing primarily on mediation and arbitration as non-judicial tools for resolving corporate conflicts. Their study highlights the importance of institutional support and the gradual adoption of international standards in Kazakhstan; however, it does not address the role of judicial mechanisms operating under different legal traditions.[21] Kalshabayeva et al. (2025) analysed the legislative framework governing mediation in Kazakhstan and foreign jurisdictions, examining its legal nature, principles, and institutional development. While their research contributes to understanding the evolution of mediation as an alternative dispute resolution mechanism, it does not explore the interaction between mediation and court-based corporate dispute resolution within a mixed legal environment.[22]

Other studies have addressed specific procedural and doctrinal aspects of dispute resolution through a comparative legal lens. Satayeva (2023), for instance, examined the institution of disclosure of documents in civil proceedings in Kazakhstan and the United Kingdom, emphasising the importance of disclosure mechanisms for enhancing procedural discipline, legal certainty, and legal culture. Her comparative analysis demonstrates the potential of adopting selected common law procedural elements within Kazakhstan's civil procedural framework, particularly in light of recent reforms introducing pre-trial disclosure mechanisms. However, this study is limited to general civil proceedings and does not extend its analysis to corporate disputes or to the broader institutional

[19] Nurlan Orazalin, Monowar Mahmood and Keun Jung Lee, 'Corporate Governance, Financial Crises and Bank Performance: Lessons from Top Russian Banks', *Corporate Governance*, 16.5 (2016), 798–814 https://doi.org/https://doi.org/10.1108/CG-10-2015-0145

[20] Hamza Almustafa and others, 'Societal Happiness and Corporate Cash Holdings: The Contingency Role of Climate Policies', *Journal of Environmental Management*, 395 (2025), 127722 https://doi.org/https://doi.org/10.1016/j.jenvman.2025.127722

[21] Phillip Baker and others, 'Towards Unified Global Action on Ultra-Processed Foods: Understanding Commercial Determinants, Countering Corporate Power, and Mobilising a Public Health Response', *The Lancet*, 406.10520 (2025), 2703–26 https://doi.org/https://doi.org/10.1016/S0140-6736(25)01567-3

[22] Manshuk Kalshabayeva and others, 'Legislation of the Republic of Kazakhstan and Foreign Countries in the Field of Mediation', *Rivista Di Studi Sulla Sostenibilità - Review of Studies on Sustainability - Open Access*, 2025 https://doi.org/10.3280/riss2025oa21078

implications of integrating common law judicial practices into Kazakhstan's corporate dispute resolution system.[23]

Additional research has focused on the protection of shareholders' rights, the regulation of corporate contracts, and the prevention of corporate conflicts through improved corporate governance. Comparative studies examining the experience of European Union jurisdictions have analysed jurisdictional issues in intellectual property–related corporate disputes and the application of case law principles in trade and commercial conflicts. These contributions provide valuable insights into specific elements of corporate dispute resolution but remain largely fragmented and sector-specific. In the context of Kazakhstan, existing literature predominantly concentrates on procedural reforms, alternative dispute resolution mechanisms, and the assimilation of international legal practices within a civil law framework.[24]

Despite the growing body of scholarship, there remains a lack of comprehensive comparative analysis addressing the convergence of civil law and common law mechanisms in corporate dispute resolution, particularly with regard to judicial practice. Existing studies have not sufficiently examined the adaptation of common law judicial principles within Kazakhstan's corporate legal framework or the role of specialised courts operating outside the traditional civil law system. In particular, the functioning of the Astana International Financial Center (AIFC) Court as a common law, based judicial institution within Kazakhstan's legal order has received limited scholarly attention.[25]

This study addresses this gap by providing a systematic analysis of corporate dispute resolution in Kazakhstan through the prism of legal convergence between civil law and common law traditions. Unlike previous research, this study examines the integration of common law judicial mechanisms into corporate dispute resolution as an institutional and doctrinal phenomenon, with particular emphasis on the role of the AIFC Court.[26] By combining doctrinal analysis with comparative legal research and examining the experiences of jurisdictions with civil and mixed legal systems, this research offers a novel contribution to the literature by assessing the compatibility, challenges, and prospects of integrating common law mechanisms into Kazakhstan's corporate dispute resolution framework.[27]

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[23] Aizhan Satayeva, 'Disclosure in Civil Proceedings in the UK and Kazakhstan: Comparative Analysis', *Statute Law Review*, 44.3 (2023), hmad010 https://doi.org/10.1093/slr/hmad010

[24] Richard W Carney and others, 'National Legislatures and Corporate Transparency', *Research in International Business and Finance*, 71 (2024), 102441 https://doi.org/https://doi.org/10.1016/j.ribaf.2024.102441

[25] Daulet Akhmetov and Peter Howie, 'Coal-Based Generators' Corporate Response to an Emissions Trading Scheme in Kazakhstan', *Utilities Policy*, 90 (2024), 101797 https://doi.org/https://doi.org/10.1016/j.jup.2024.101797

[26] Maitreyee Das, Abhishek Dutta and Gautam Dutta, 'An Assessment of Collaborative Research in Corporate Sustainability', *Social Sciences & Humanities Open*, 11 (2025), 101288 https://doi.org/https://doi.org/10.1016/j.ssaho.2025.101288

[27] Alfredo Jiménez and others, 'Democracy's Political Ideology and Corporate Political Activities: The Role of State Capacity, Firm Size, and Capital Location', *Journal of Business Research*, 194 (2025), 115371 https://doi.org/https://doi.org/10.1016/j.jbusres.2025.115371

2. Research Method

A doctrinal and comparative legal approach is adopted to analyse corporate dispute resolution within Kazakhstan's legal system and selected foreign jurisdictions.[28] The research is based on the analysis of domestic and international legal instruments regulating corporate relations and dispute resolution, complemented by the examination of judicial practice. The international legal framework considered includes the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) and the UNCITRAL Arbitration Rules, which provide the normative basis for cross-border dispute resolution and have been incorporated into Kazakhstan's legal system. Doctrinal legal analysis is used to interpret statutory provisions governing corporate disputes, focusing on their legal concepts, principles, and internal coherence. Within this framework, comparative legal analysis is applied to assess regulatory standards and institutional mechanisms in selected jurisdictions representing different legal traditions, including the United Kingdom, the United States, the United Arab Emirates, the Netherlands, Switzerland, Germany, and France. The comparative assessment draws on key legislative instruments such as the UK Companies Act 2006, the Arbitration Act 1996, the German Stock Corporation Act (Aktiengesetz), and the French Commercial Code, enabling the identification of similarities and differences in corporate dispute resolution mechanisms across civil law, common law, and mixed legal systems.[29] Particular emphasis is placed on the analysis of Kazakhstan's legal framework governing corporate relations and the resolution of corporate disputes. The research examines relevant provisions of the Civil Procedure Code, corporate governance regulations, and constitutional principles, as well as selected court decisions involving corporate conflicts. Special attention is given to the jurisprudence of the Astana International Financial Centre (AIFC) Court, whose judicial practice is analysed to assess the application of common law principles within Kazakhstan's predominantly civil law, based legal environment and to evaluate the prospects for integrating such mechanisms into the national system of corporate dispute resolution.[30]

3. Results and Discussion

3.1. Implementation of Common Law Mechanisms in Kazakhstan within Global Legal Convergence

Inevitable and rapid globalization has initiated a process of harmonizing legal systems across nations due to transnationalization. This process has permeated all aspects of societal life. The world is increasingly interconnected, and the process of blurring socio-cultural, economic, and legal borders is underway. The roots of the contemporary globalization phenomenon can be traced back to the 12th and 13th centuries, when the development of capitalist market relations in Europe and the explosive growth of European commerce

[28] Tojiboev Akbar Zafar Ogli Pujiyono Suwadi, Hasbullah, Anurat Anantanatorn, 'Judges' Role in Suspect Determination and Evolving Legal Concepts', *Jurnal Justice Dialectical*, 3.2 (2025), 176–97 https://doi.org/https://doi.org/10.70720/jjd.v3i2.98

[29] Ariawan, 'Regulatory Barriers to Consumer Protection in Digital Marketplaces Ariawan', 5.3 (2025), 806–32 https://doi.org/https://doi.org/10.53955/jhcls.v5i3.782

[30] Martono Anggusti and others, 'ASEAN ' s Migrant Rights Policy Dilemma and Deadlock on Migrant Worker Protection', 5.3 (2025), 714–48 <https://doi.org/https://doi.org/10.53955/jhcls.v5i3.581>.

coincided.[31] During this period, two distinct but well-established legal systems emerged in Europe: the Romano-Germanic (continental) system and the Anglo-Saxon system. Each of these legal traditions has formed its own approach to resolving disputes, including those arising in the corporate realm.[32]

The Romano-Germanic legal system,[33] also known as continental or civil law, is one of the most extensive legal systems in the world. It originated from Roman law and has been further developed in European nations, particularly in Germany and France. This legal tradition encompasses a wide range of countries in Europe and beyond, including virtually all post-Soviet states, Brazil, and Japan, among others.[34] Within this legal framework, there exist comprehensive and structured codes that encompass a wide range of legal domains, including civil, criminal, commercial, and administrative law. Illustrative examples include the French Civil Code (the Napoleonic Code) and the German Civil Code (BGB). The hallmark of the Romano-Germanic legal tradition is the process of normative generalization, which is accomplished through the enactment of codified regulatory acts. These codifications constitute a logically coherent regulatory framework. Consequently, in the context of the continental legal paradigm, law is predominantly conceptualized as a body of legal provisions.[35]

In the context of the Anglo-Saxon legal tradition, the United Kingdom and the United States are undoubtedly prominent examples. The Anglo-Saxon system is now the most prevalent in the contemporary world, accounting for a third of the global population residing in Anglo-Saxon nations. This situation can be attributed to Britain's extensive colonial history.[36] The Anglo-Saxon legal tradition, also referred to as the common law system, stands out for its distinctive source. Unlike the continental system, which relies heavily on codified statutes, the common law primarily rests on case law and legal practice. This emphasis on the latter allows for a more flexible and less abstract interpretation of legal rules, giving rise to a distinctive casuistic quality in the law. Nonetheless, in the Anglo-Saxon legal system, there is no distinction between private and public law, which is a fundamental aspect of the continental legal system.[37]

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[31] David Herlihy, 'The Economy of Traditional Europe', *Journal of Economic History*, 31.1 (1971), 153–164 https://econpapers.repec.org/article/cupjechis/v_3a31_3ay_3a1971_3ai_3a01_3ap_3a153-164_5f09.htm [accessed 3 December 2024]

[32] Moldashev, Sahimbekov and Kozhakhmet.

[33] In the legal systems of post-Soviet states, the term "legal family" is primarily employed, rooted in the framework of R. David's classification system (see David and Brierley 1978).

[34] Svetlana Boshno, 'Modern Legal Systems', *Law and Modern States,* 6 (2013), 58–71 http://dx.doi.org/10.14420/ru.2018.2-3.5

[35] Vasyl Kvartiuk and Martin Petrick, 'Liberal Land Reform in Kazakhstan? The Effect on Land Rental and Credit Markets', *World Development*, 138 (2021), 105285 https://doi.org/https://doi.org/10.1016/j.worlddev.2020.105285

[36] Leonid Rasskazov, 'Anglo-Saxon Legal Family: Genesis, Main Features and the Most Important Sources', *Scientific Journal of KubSAU*, 105.1 (2015) 949–963 https://cyberleninka.ru/article/n/anglosaksonskaya-pravovaya-semya-genezis-osnovnye-cherty-i-vazhneyshie-istochniki/viewer [accessed 3 December 2024]

[37] Mirgul Nizaeva and Ali Uyar, 'Corporate Governance Codes of Eurasian Economic Union Countries: A Comparative Investigation', *Corporate Governance*, 17.4 (2017), 748–69 https://doi.org/https://doi.org/10.1108/CG-11-2016-0214

The exponential expansion of trade transactions and foreign investment initiatives, particularly those involving participants from Anglo-Saxon nations, has inexorably initiated a reciprocal integration of certain principles of common law into the framework of continental legal systems. Kazakhstan, along with other countries such as the Russian Federation and the members of the Commonwealth of Independent States (CIS), has made efforts to incorporate elements of Anglo-Saxon law into its domestic legal system. Simultaneously, these endeavors were occasional, and persistent divergences in national legal frameworks prevented such initiatives from fully materializing. Efforts to incorporate elements of Anglo-Saxon legal systems into Kazakhstan primarily stemmed from the country's aspiration to establish internationally recognized legal standards, particularly in the domains of commerce and investment. Nevertheless, these transformations have consistently occurred within limited parameters, without significantly impacting the fundamental underpinnings of the national legal framework.[38]

In 1998, the Republic of Kazakhstan adopted the Law "On Joint-Stock Companies". However, this law could not fully operate due to the inability of the legal, institutional, and economic environment at the time to address many practical issues. The primary challenges were the low level of corporate culture, a lack of experience and appropriate law enforcement practices, inadequate protection for minority shareholders' rights, insufficient transparency in corporate governance, poor control mechanisms, and a shortage of qualified personnel. Additionally, minority shareholders faced difficulties accessing information and defending their interests in court. Managers and board members often lacked a clear understanding of their duties and responsibilities to the company and its shareholders, leading to instances of abuse and violation.[39] The judiciary did not always possess the expertise to adjudicate corporate disputes, and the law enforcement framework regarding the liability of directors and protection of shareholder rights was only beginning to emerge. Moreover, the institutions derived from the common law and codified in this legislation, such as the "public joint-stock company" and the "private joint-stock company," failed to take root. Five years after its enactment, this statute became obsolete. In 2003, an updated Law "On Joint-Stock Companies" was adopted, which was entirely based on the tenets of the continental law system. The law remains in effect to this day.[40]

The recent legal developments in the realm of corporate legislation within the Republic of Kazakhstan reflect a series of initiatives aimed at fostering a more conducive and resilient business environment. These efforts are geared towards attracting foreign investment, while simultaneously ensuring transparency and safeguarding the interests of all parties involved in corporate interactions. The reforms that accompany these initiatives are in line with Kazakhstan's broader strategic plans for its economic development and the modernization of its legal framework in the context of global economic challenges. This process is also

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[38] Nurlan Orazalin, 'Corporate Governance and Corporate Social Responsibility (CSR) Disclosure in an Emerging Economy: Evidence from Commercial Banks of Kazakhstan', *Corporate Governance*, 19.3 (2018), 490–507 https://doi.org/https://doi.org/10.1108/CG-09-2018-0290

[39] Maksat Bashirov, 'Protection of Minority Shareholders under the Law 'On Joint-Stock Companies'', *The Kazakh-American Free University Academic Journal*, 4 (2009), 1 https://www.vestnik-kafu.info/journal/20/829/ [accessed 3 December 2024]

[40] Ziqiao Yan and others, 'Overseas Corporate Social Responsibility Engagement and Competitive Neutrality of Government Subsidies: Evidence from Multinational Enterprises in Emerging Markets', *Journal of International Financial Markets, Institutions and Money*, 80 (2022), 101625 https://doi.org/https://doi.org/10.1016/j.intfin.2022.101625

part of the country's endeavor to establish itself as a "listening state" (a state that is capable of open cooperation and partnership).[41] Against this backdrop, foreign investors continue to be consistently drawn to the straightforwardness of regulatory frameworks and the presence of instruments designed to protect their rights and interests. The proximity of the legal apparatus of the host country to those of the investor's jurisdiction assumes significant importance for the investor. On the other hand, there is a discernible trend towards an escalation in the frequency of corporate disputes and conflicts, accompanied by the emergence of novel risk factors contributing to their occurrence.[42] Therefore, relatively recently, in 2015, amendments were introduced into the Civil Procedure Code (hereafter referred to as the CPC) of the Republic of Kazakhstan regarding the settlement of corporate disputes. These changes were part of a broader reform focused on modernizing the civil and corporate legal framework in Kazakhstan. The ultimate goal was to enhance the business environment and foster the development of a market economy. The rationale behind the revision of the existing code was driven by the necessity to ensure uniform interpretation of legal provisions, maintain consistency in the language used in court rulings pertaining to corporate matters, and improve the standard of justice in this domain.[43]

In the Republic of Kazakhstan, the law enforcement practice related to corporate disputes has yet to be fully developed, with questions regarding the application of procedural law continuing to arise. The very concept of a "corporate dispute" is a relatively new addition to national legislation. Despite the dynamic evolution of market and corporate legal relationships within the country, the previous version of the CPC did not explicitly define a corporate dispute. To address this shortcoming, the revised version of the CPC places significant emphasis on delineating the specific characteristics of corporate conflicts.[44] This is evident in Article 27, which outlines the jurisdiction of economic courts in civil cases. According to Article 27 of the CPC, corporate disputes are disputes, which involve a commercial organization, an association (union) of commercial organizations, an association (union) of commercial organizations and/or private entrepreneurs, a non-profit organization, which is defined as a self-governed organization by the laws of the Republic of Kazakhstan, and/or its shareholders (participants, members) including former ones. Corporate disputes encompass a broad spectrum of legal issues arising from the internal organisation, management, and activities of juridical persons. Such disputes may relate to the establishment, reorganisation, or liquidation of a legal entity, as well as to matters concerning the ownership and transfer of shares in joint-stock companies, equity interests in economic partnerships, and membership rights in cooperatives, including the creation of encumbrances and the exercise of related rights. Corporate disputes also include claims

[41] Akorda, *The Address of Kassym-Jomart Tokayev, the President of the Republic of Kazakhstan, to the Nation* (2022) https://www.akorda.kz/ru/addresses/addresses_of_president/poslanie-glavy-gosudarstva-kasym-zhomarta-tokaeva-narodu-kazahstana [accessed 3 December 2024]

[42] Bakhytbek Aissautov, 'Corporate Conflicts: Prevention and Settlement in the Context of the Law Enforcement Practice of the Republic of Kazakhstan and the European Union', *Education and Law*, 9 (2021), 467–481 https://doi.org/10.24412/2076-1503-2021-9-467-481

[43] Anh-Tuan Le, Thao Phuong Tran and Phuong-Linh Vu, 'ESG Reputational Risk and Corporate Dividend Policy: International Evidence', *Journal of International Financial Markets, Institutions and Money*, 106 (2026), 102246 https://doi.org/https://doi.org/10.1016/j.intfin.2025.102246

[44] Sungwon Kang, Daehwan Kim and Geonhyeong Kim, 'Corporate Entertainment Expenses and Corruption in Public Procurement', *Journal of Asian Economics*, 84 (2023), 101554 https://doi.org/https://doi.org/10.1016/j.asieco.2022.101554

seeking compensation for losses caused to a juridical person as a result of actions or omissions by its officials, founders, shareholders, participants, or other responsible persons, as well as disputes concerning the validity of transactions and the legal consequences arising from their invalidity.[45]

In addition, corporate disputes may arise in connection with the appointment, election, suspension, or termination of powers and responsibilities of members of a juridical person's management bodies, including disputes stemming from civil law relations between such persons and the legal entity in the course of exercising managerial authority. Issues related to the issuance of securities, the maintenance of shareholder and securities holder registers, and disputes concerning the placement, circulation, or state registration of securities also fall within the scope of corporate disputes. Furthermore, disputes may concern the convening and conduct of general meetings of shareholders, the validity of decisions adopted at such meetings, and the challenge of decisions, actions, or omissions of the executive bodies of a juridical person.[46]

Despite the codification of relevant criteria in legislation, there still exist areas of ambiguity regarding the classification of specific claims regarding corporate disputes. From the perspective of a literal interpretation of Article 27 of the CPC, it is unclear whether individuals who intended to become shareholders in a company but failed to complete the process by entering into a cooperation or intent agreement without signing the constituent agreement and registering the entity can be considered parties to a corporate dispute. Another example concerns whether corporate disputes involve the violation of spousal interests in transactions involving shares in property or businesses. In such cases, the parties of the dispute may fail to meet the requirements for the participants of corporate disputes, as outlined in Article 27 of the CPC.

In English law, the concept of a "corporate dispute" is not defined through a single, comprehensive legislative instrument. Instead, its meaning is shaped through a combination of statutory provisions, judicial precedents, and established corporate legal practices. Corporate disputes are therefore identified and addressed within a broader regulatory and jurisprudential framework rather than through a unified statutory definition. Central to this framework is the Companies Act, which constitutes the primary legislative instrument governing the formation, organisation, and operation of companies throughout the United Kingdom. This Act sets out the fundamental principles of corporate governance, defining the rights and obligations of directors, shareholders, and other stakeholders, and thereby provides the legal basis for resolving disputes arising from internal corporate relations, such as conflicts between shareholders and management or disputes concerning the exercise of directors' duties and powers.[47]

In addition to statutory regulation, judicial precedent plays a decisive role in the interpretation and resolution of corporate disputes within the Anglo-Saxon legal tradition. English courts rely extensively on prior judicial decisions when adjudicating corporate

[45] Ariawan.
[46] Adilet, *Civil Procedural Code of the Republic of Kazakhstan Dated October 31, 2015 № 377-V* (2015) https://adilet.zan.kz/rus/docs/K1500000377 [accessed 3 December 2024]
[47] Fidiana Fidiana, Prawita Yani and Diah Hari Suryaningrum, 'Corporate Going-Concern Report in Early Pandemic Situation: Evidence from Indonesia', *Heliyon*, 9.4 (2023), e15138 https://doi.org/https://doi.org/10.1016/j.heliyon.2023.e15138

conflicts, which contributes to the dynamic development of corporate law through case law. The identification and analysis of relevant precedents are facilitated by electronic legal databases, such as the British and Irish Legal Information Institute (BAILII), which allow users to search for cases based on subject matter, keywords, timeframes, and jurisdiction. Through the interaction of statutory rules and judicial practice across the distinct legal systems of England and Wales, Scotland, and Northern Ireland, the content and scope of corporate disputes in English law continue to evolve in response to practical and doctrinal developments.

Table 1. Judicial Systems in the Constituent Countries

United Kingdom	**England and Wales**	**Scotland**	**Northern Ireland**
Courts – House of Lords, Supreme Court, Privy Council	**Courts** - House of Lords, Supreme Court, Privy Council, Court of Appeal (Civil Division), Court of Appeal (Criminal Division)	**Courts** - House of Lords, Supreme Court, Privy Council, Scottish Court of Session, Scottish High Court of Justiciary, Scottish Sheriff Court, Scottish Information Commissioner, Scottish Sheriff Appeal Court (Criminal Division), Scottish Sheriff Appeal Court (Civil Division)	**Courts** - House of Lords, Supreme Court, Privy Council, Court of Appeal in Northern Ireland, High Court of Northern Ireland
Tribunals - Asylum and Immigration Tribunal, Immigration and Asylum (AIT/IAC) Unreported Judgments, Upper Tribunal (Administrative Appeals Chamber), Upper Tribunal (Tax and Chancery Chamber), Upper Tribunal (Immigration and Asylum Chamber), Upper Tribunal (Lands Chamber), First Tier Tribunal (General Regulatory Chamber), First Tier Tribunal (Tax Chamber), First Tier Tribunal (Property Chamber), Competition Appeals Tribunal, Employment Appeal Tribunal, Employment Tribunal, Financial Services and Markets Tribunals, Information Tribunal including the National Security Appeals Panel, Nominet UK Dispute Resolution Service.	**High Court** - Administrative Court, Admiralty Division, Chancery Division, Commercial Court, Exchequer Court, Family Division, King's Bench Division, Mercantile Court, Patents Court, Queen's Bench Division, Senior Court Costs Office, Technology and Construction Court.		**Tribunals** - United Kingdom Tribunals, Fair Employment Tribunal Northern Ireland, Industrial Tribunals Northern Ireland, Northern Ireland - Social Security and Child Support Commissioners

Sources: Compiled by the authors from various sources

In England, arbitration and mediation are widely used as alternative mechanisms for resolving corporate disputes outside the formal court system. These methods are regulated

by specific legislative instruments, most notably the Arbitration Act 1996, which establishes the foundational principles governing arbitral proceedings.[48] The Act emphasises the fair and impartial resolution of disputes without unnecessary delay or cost, recognises the autonomy of parties to determine the manner in which their disputes are resolved within the limits of public interest safeguards, and restricts judicial intervention to circumstances expressly предусмотрен within the statutory framework. Through these principles, arbitration and mediation serve as effective tools for addressing corporate conflicts while maintaining procedural efficiency and flexibility.[49]

Within this legal context, a corporate dispute in the United Kingdom is generally understood as a disagreement or conflict arising either within a company or between corporate entities, involving founders, shareholders, directors, management bodies, or other stakeholders. The scope and content of this concept are not fixed but evolve depending on the specific legal context and the interpretation of courts in relevant case law. As a result, the understanding of corporate disputes in English law remains flexible and responsive to the practical realities of corporate governance and commercial relations.[50]

According to Part 1 of Article 27 of the CPC, corporate disputes in the Republic of Kazakhstan are adjudicated by specialized interdistrict economic courts.[51] Such courts are situated in the regional capital of each territorial unit (oblast), of which there are seventeen, as well as in Astana, Almaty, and Shymkent. The process of applying to a specialized interdistrict economic court in the context of corporate dispute resolution is conducted both through traditional means of paper-based documentation and through electronic document management systems. Among corporate legal professionals, the latter approach is more prevalent, as electronic court proceedings offer significant time savings for the parties involved. Following the COVID-19 pandemic, online resolution of corporate disputes has become particularly widespread.[52]

Simultaneously, the judicial proceedings in the Republic of Kazakhstan are conducted by a court that operates on the basis of common law, characteristic of the Anglo-Saxon legal system. This court is the Astana International Financial Centre Court (hereinafter referred to

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[48] Sharoj Sharma-Nepal and Leo Isce-Taylor, *The Legal Basis of CSR: Voluntary v Compliance*, *The Palgrave Handbook of Corporate Social Responsibility*, 2021 https://doi.org/10.1007/978-3-030-42465-7_77

[49] Abzal Temirbayev and Alikhan Abakanov, 'Changes in Corporate Governance in Kazakhstan and Its Impact on Financial Market Growth: An Empirical Analysis (1991-2017)', *Corporate Governance*, 19.5 (2019), 923–44 https://doi.org/https://doi.org/10.1108/CG-07-2018-0238

[50] Mark Holtzblatt and Norbert Tschakert, 'Baker Hughes: Greasing the Wheels in Kazakhstan (FCPA Violations and Implementation of a Corporate Ethics and Anti-Corruption Compliance Program)', *Journal of Accounting Education*, 32.1 (2014), 36–60 https://doi.org/https://doi.org/10.1016/j.jaccedu.2014.01.005

[51] See: Art. 27 of the Civil Procedure Code of the Republic of Kazakhstan: «Specialized inter-district economic courts shall consider and settle civil cases concerning property and non-property disputes, in which participate physical individuals, who carry out individual entrepreneurship activity without foundation of a legal entity, participate legal entities as well as concerning corporate disputes except for cases, which fall to jurisdiction of other court according to law» (Section one, paragraph 1); «Specialized inter-district economic courts also consider cases about re-structuring of financial organizations and organizations, which are members of a bank conglomerate in the capacity of parent organization and which are not financial organizations in cases stipulated by the Republic of Kazakhstan laws, cases related to bankruptcy of individual entrepreneurs and legal entities and rehabilitation of legal entities» (Section one, paragraph 1, pp1-1).

[52] Almustafa and others.

as "the AIFC Court"). The official website of the court[53] states that the court was initiated not only by Kazakhstan, but also by the entire Eurasian region. The AIFC Court does not form part of the judicial system in Kazakhstan. The effective operation of the court is entrusted, in particular, to its personnel, relying on the experience and professionalism of its judges.[54]

The AIFC Court, for the first time in the Eurasian region, has introduced a legal system based on the principles of common law, rather than the continental legal system. This court operates in accordance with the highest international standards in resolving commercial disputes within the AIFC framework. As a result, this court's jurisdiction is limited, and it is not empowered to adjudicate all commercial disputes. The court's authority is confined to exclusively considering disputes arising from the operations of the AIFC and corporate disputes where both parties have voluntarily submitted their case to its jurisdiction.[55]

The AIFC Court is independent in its operations and is not affiliated with the judicial system of the Republic of Kazakhstan. The court's structure includes the Appellate Court, whose decisions are deemed final and do not warrant further review. The AIFC operates using its own set of procedural regulations, which rest on the fundamental principles and procedural standards of English and Welsh law, as well as best practices from leading global financial hubs. A distinctive feature of this court is its provision of a streamlined procedure for swiftly adjudicating minor claims amounting to up to 150,000 US dollars in the Small Claims Court.[56] In light of these operational aspects, it becomes evident that the process of integrating elements of the Anglo-Saxon legal framework into the legal system and judicial apparatus of Kazakhstan is already underway.[57]

The judiciary of the Republic of Kazakhstan encompasses civil, criminal, administrative, juvenile, and military matters, all operating under a unified judicial framework. In turn, the AIFC Court stands out with its Justice system, enabling parties to initiate legal proceedings electronically from any corner of the globe, eliminating the need for physical presence within the court premises. In instances where personal attendance is deemed unnecessary or impractical by the judge, video sessions are conducted. The court's efficient case management system ensures swift and cost-effective resolution, ensuring that cases are handled with the utmost expediency and precision. The decisions rendered by the court are backed by a robust enforcement mechanism within the territory of Kazakhstan, guaranteeing their implementation. The AIFC Court has gained recognition among global investors as the court of choice for resolving international commercial disputes in the Eurasian region. In competition with some of the most prestigious courts worldwide, this institution has been designated as the primary forum for settling legal matters in over 10,000 commercial agreements.

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[53] AIFC Court, *Official Website* (2024) https://court.aifc.kz/ru/about-the-aifc-court [accessed 3 December 2024]

[54] RAPSI, *Christopher Campbell-Holt: "We are Ready and Able to Deliver Justice"* (2019) https://rapsinews.com/publications/20191202/305123463.html [accessed 3 December 2024]

[55] Daniel Ferreira Caixe, 'Corporate Governance and Investment Sensitivity to Policy Uncertainty in Brazil', *Emerging Markets Review*, 51 (2022), 100883 https://doi.org/https://doi.org/10.1016/j.ememar.2021.100883

[56] AIFC Court, *Official Website* (2024) https://court.aifc.kz/ru/about-the-aifc-court [accessed 3 December 2024]

[57] Rui Cunha Marques, 'Public Interest and Early Termination of PPP Contracts. Can Fair and Reasonable Compensations Be Determined?', *Utilities Policy*, 73 (2021), 101301 https://doi.org/https://doi.org/10.1016/j.jup.2021.101301

Based on an analysis of the jurisprudence of the AIFC Court, it is worth noting a number of typical cases resolved by this body in the field of corporate disputes. The official website of the court provides access to cases dating back to 2019, and the present study encompasses almost all decisions rendered by this court. One such decision is the ruling of the First Instance Court of the AIFC in a corporate dispute case, which was heard on January 15, 2024, case number AIFC-C/CFI/2023/0029. In this particular case, General Contractors Group Ltd. filed a claim against BI Construction & Engineering LLP seeking authorization for a restructuring of the companies, including the integration of the LLP into the claimant's structure. Judge Andrew Spink KC granted the claim, sanctioning the reorganization based on Articles 124 and 126 of the 2017 AIFC Regulations on Companies. The judge determined that the shareholders of both entities had consented to the restructuring, and no opposition was raised by any third parties. Furthermore, all necessary legal and procedural prerequisites were fulfilled, including notifying the creditors of both companies. Consequently, the court has ruled in favor of the incorporation of BI Construction & Engineering LLP into General Contractors Group Ltd. pursuant to an agreement dated July 28, 2023.

Furthermore, this investigation examined the case at the appellate stage as part of reviewing the decision of the First Instance Court regarding a corporate dispute, namely, the decision of the AIFC Appellate Court issued on January 31st, 2024, in case No. AIFC-C/CA/2023/0040. The applicant was Michael Wilson & Partners Limited, which appealed against the ruling of the First Instance Court in the matter of recognition and execution of decisions of the English High Court and the Dutch Court against the defendants, CJSC Kazsubton, Kazphosphate LLP, and Kazphosphate Limited. Having considered the case, the Appellate Court granted the request to extend the appeal period but denied permission to appeal and suspended the proceedings. The court rejected the main arguments put forward by the applicant, finding no grounds to review the decision of the First Instance Court on jurisdiction or on reimbursement of expenses. Judge Stephen Richards rendered a decision that the appeal lacked any reasonable prospect of success and there were no further grounds for its consideration. Consequently, the appeal was dismissed, albeit with a partial satisfaction in the form of an extension of the timeframe for filing a new appeal.[58]

The decision of the First Instance Court of the AIFC, dated June 25, 2024, in case No. AIFC-C/CFI/2024/0005 is noteworthy with regard to the scale of the corporate dispute, specifically in terms of the multitude of claimants. Specifically, the claimants in this case numbered 138 individuals, all bondholders, suing NEF QAZAQSTAN LLP and TIMUR GAYRIMENKUL GELIŞTIRME YAPI VE YATIRIM A.Ş. The primary claim was centered around the recovery of funds owed under bonds issued by the defendant. The Court ruled in favor of the claimants, ordering the defendant to repay a total sum of 1,888,333,956.03 Tenge, comprising 1,566,588,320 Tenge as the principal debt and 321,745,636.03 Tenge in fines for late payment. Additionally, the Court awarded the claimants with reimbursement of legal fees amounting to 42,382,164.36 Tenge. The judge granted permission for additional parties to join the case and allowed for modifications to the form of the claim. It was also determined that the identities of the claimants should not be disclosed on the Court's website. Nonetheless, the request for interim measures was denied.

[58] Case No: AIFC-C/CA/2023/0040. MICHAEL WILSON & PARTNERS LIMITED and (1) CJSC KAZSUBTON, (2) KAZPHOSPHATE LLP, (3) KAZPHOSPHATE LIMITED. https://court.aifc.kz/uploads/AIFC%20Court%20Case%20No.40%20of%202023%20-%20Judgment_RU..pdf

The analysis of judicial decisions on corporate disputes within this court's jurisdiction revealed that the implementation of the Anglo-Saxon legal system is, to a certain extent, advantageous for the parties involved in dispute resolution. This is particularly beneficial for foreign invested companies. Thus, corporate litigation has brought into effect Anglo-Saxon legislation by establishing a distinct and independent court, which enjoys legal standing not only within the Republic of Kazakhstan but also in a total of eight Eurasian nations. As of the year 2024, this judicial body has rendered 131 judgments and rulings, involving commercial and corporate entities from 27 different countries.

Another institutional element derived from the common law tradition and incorporated into the legal system of the Republic of Kazakhstan is the International Arbitration Centre (IAC). The IAC differs from the Astana International Financial Centre (AIFC) Court primarily in its function of providing alternative mechanisms for the efficient resolution of commercial and corporate disputes outside the state court system. Parties to a dispute may opt for arbitration administered directly by the IAC under its Arbitration and Mediation Rules adopted in 2022. These Rules provide for flexible procedural options, including expedited proceedings, the appointment of emergency arbitrators, and the resolution of disputes arising from investment contracts. Their overarching objective is to ensure the fair and impartial settlement of disputes without undue delay or expense, while allowing arbitral tribunals to apply the law chosen by the parties or, in the absence of such agreement, the law most appropriate to the circumstances of the case. This approach reflects a high degree of procedural autonomy and legal flexibility, enabling parties to select the substantive legal framework governing their dispute.

In addition to arbitration, the IAC framework integrates mediation mechanisms at various stages of the dispute resolution process. The Arbitration and Mediation Rules set out the objectives, scope, and procedural requirements for mediation, including the conclusion of a preliminary mediation agreement. The inclusion of mediation within the arbitral process reflects the influence of common law traditions, particularly those originating in the United States, where mediation has long been established as a central component of alternative dispute resolution. Accordingly, the mediation practices applied within the IAC framework in Kazakhstan can be viewed as drawing upon common law principles and experiences.

Alternatively, parties may agree to conduct arbitration under the Arbitration Rules of the United Nations Commission on International Trade Law (UNCITRAL) or under other specialised arbitration rules agreed upon between them. The UNCITRAL Arbitration Rules provide a comprehensive procedural framework governing all stages of arbitration, including model arbitration clauses, the appointment of arbitrators, and the conduct of arbitral proceedings. The availability of multiple versions of the UNCITRAL Rules allows parties to tailor the procedural framework to the specific nature of their dispute, making these rules suitable for a wide range of commercial, corporate, and investment-related conflicts involving private entities and, in certain cases, states. The IAC and the AIFC Court both employ an eJustice system. This system enables parties to file lawsuits remotely online from any location worldwide, eliminating the need for physical presence in the courtroom. Meetings are conducted via video conferencing, unless the arbitrator or mediator deems it necessary or practicable for the parties to attend in person.

The awards issued by the IAC and the judgments of the AIFC Court are legally binding in the Republic of Kazakhstan. The relevant executive bodies are responsible for taking all necessary measures to enforce these decisions within their respective jurisdictions. Moreover, these judgments are subject to international recognition and enforcement in accordance with the United Nations Convention on the Recognition and Enforcement of

Foreign Arbitral Awards of 1958. Pursuant to the first paragraph of Article 2 of the Convention, each Contracting State recognizes a written agreement between parties that obligates them to submit all disputes arising or potentially arising between them in relation to a specific contractual or legal relationship to arbitration.[59] The Republic of Kazakhstan acceded to this Convention in 1995.[60]

Nonetheless, there exists a sizable contingent of civil lawyers in Kazakhstan who harbor deep reservations, if not outright criticism, about the operations of the AIFC Court and the IAC. The discourse on the implementation of Anglo-Saxon legal standards persists to this day. Farhad S. Karagusov, a pioneer in the development of modern corporate law in Kazakhstan, argues that the activities of these institutions contribute to the emergence of parallel jurisdictions within the country – a development that is deemed untenable. In his article titled *On the Attempt to Create a Legal Basis for the Functioning of Two Jurisdictions on the Territory of the Republic of Kazakhstan*, Karagusov states: *"...it should be noted that the coexistence of two distinct legal systems within a single jurisdiction is not considered a normative phenomenon in accordance with universally recognized principles of contemporary international and domestic public law."*.[61] Karagusov primarily expresses his skepticism and reservations regarding the implementation of British legal norms in the legal system of Kazakhstan. However, the author acknowledges that there are advantages to adopting legal institutions from other legal systems, particularly if this approach contributes to the country's prosperity, enhances the well-being of its citizens, and fosters international cooperation. Furthermore, in the context of interstate integration, such as within the framework of the Eurasian Economic Union, the unification of legal systems may even prove beneficial. On the other hand, Karagusov emphasizes that any adoption of foreign legal practices must be subjected to comprehensive analysis, considering potential political, economic, social, and cultural implications. Accordingly, this article does not outright dismiss the idea of adoption but rather advocates for a cautious and well-balanced approach.

A similar view on the incorporation of Anglo-Saxon law into the national law of Kazakhstan was expressed by a prominent Kazakh civil law scholar, Professor Maidan K. Suleimenov, in his article titled *English Law and the Legal System of Kazakhstan*.[62] In this paper, the author contends that English law fundamentally clashes with the continental legal system. The article by Suleimenov delves into the intricacies of the relationship between English law and Kazakhstan's legal frameworks, with a particular focus on examining the feasibility of incorporating elements of English legal principles into Kazakh law. The article highlights instances of failed attempts to implement Anglo-Saxon legal institutions in Kazakhstan and explores the potential consequences of such modifications on the country's legal landscape. Nevertheless, the author acknowledges the potential benefits and applicability of certain aspects of English law, particularly in the realm of corporate legal relations. Among the positive aspects, Suleimenov highlights the feasibility

[59] Ibid.
[60] Online Zakon, *The Decree of the President of the Republic of Kazakhstan No. 2485 dated 4th October, 1995 "On the Accession of the Republic of Kazakhstan to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958"* (1995) https://online.zakon.kz/Document/?doc_id=1003953 [accessed 3 December 2024]
[61] Farkhad S. Karagusov, 'On the Attempt to Create a Legal Basis for the Functioning of Two Jurisdictions on the Territory of the Republic of Kazakhstan' in *Online Zakon* (2016) https://online.zakon.kz/Document/?doc_id=39979088 [accessed 3 December 2024]
[62] Maidan K. Suleimenov, 'English Law and the Legal System of Kazakhstan' in *Online Zakon* (2015) https://online.zakon.kz/Document/?doc_id=34332948&pos=6;-116#pos=6;-116 [accessed 3 December 2024]

of implementing Anglo-Saxon legal principles in domains such as contractual law and corporate governance, provided that a meticulous and tailored approach is adopted.[63] The author posits that it is within these specific areas that valuable insights can be gained, which can prove advantageous for the development of jurisprudence in Kazakhstan. Suleimenov distinguishes several facets of implementation, suggesting ways to proceed without compromising the tenets of Kazakh law. He proposes, for instance, incorporating provisions on corporations and corporate relationships into the Civil Code, imposing personal liability on founders and executives, establishing a system of post-implementation monitoring, and abolishing mandatory membership in self-regulating organizations. In essence, the author suggests a cautious approach to incorporating English law, emphasizing the need for a comprehensive examination of each legal provision before its incorporation into the national legal framework.[64]

3.2. Enforcement of Common Law Standards in Civil and Mixed Legal Systems

In examining jurisdictions outside the Anglo-Saxon legal tradition that have integrated elements of English law into their legal systems, the United Arab Emirates (UAE) represents a particularly illustrative example. The UAE offers parties involved in commercial disputes a dual judicial structure consisting of onshore and offshore courts, each operating under distinct legal regimes. Onshore courts form part of the national judicial system and function within the framework of domestic law, whereas offshore courts apply common law principles and operate independently from the local judiciary. This dual system provides parties with procedural alternatives tailored to different legal and commercial needs.

Onshore courts in the UAE are subject to both federal and emirate-level legislation, which may vary across the different emirates, thereby resulting in a degree of legal diversity within the domestic court system. Historically, judicial proceedings were conducted exclusively in Arabic; however, English has increasingly been recognised as an additional working language, particularly in commercial cases. By contrast, offshore courts operate entirely within a common law framework and are institutionally separate from the national court system. Notable examples include the Dubai International Financial Centre (DIFC) Courts and the Abu Dhabi Global Market (ADGM) Courts, both of which are governed by legislative regimes largely modelled on the legal system of England and Wales.

According to the Constitution of the UAE, the country is an autonomous federal state, in which each of its constituent emirates maintains full sovereignty over their respective territories and territorial waters. Each emirate enjoys its own distinct economic and legal framework. The Constitution also allows for each emirate to establish its own system of public administration based on the principle of the separation of powers. Article 7 of the Constitution of the UAE indicates that Islam is the official religion of the country, and

[63] Diana Batyrbekova and others, 'The Influence of the Current Law of the Astana International Financial Center on the Development of the Legal System of Kazakhstan; [Вплив Чинного Закону Про Астанинський Міжнародний Фінансовий Центр На Розвиток Правової Системи Казахстану]', *Scientific Herald of Uzhhorod University. Series Physics*, 2024, 1324 – 1332 https://doi.org/10.54919/physics/55.2024.132bt4

[64] Faik Çelik, 'Corporate Govarnence and Welfare/Corporate Governance in Turkey', in *Procedia Computer Science*, 2019, CLVIII, 907 – 912 https://doi.org/10.1016/j.procs.2019.09.130

Sharia law serves as the primary source of legislation.[65] The judicial system consists of independent courts, which maintain the supremacy of law. Article 94 of the Constitution establishes an independent judiciary, ensuring that judges are bound only by law and protected from external influence. Every resident, including non-nationals, has the right to a fair judicial process, encompassing the rights to be heard, present evidence for judicial evaluation, and challenge unfavorable decisions.[66]

To date, the UAE has successfully established a free economic zone with its own jurisdiction, the Dubai International Financial Centre (DIFC), which is among the top 10 financial centers globally, according to the Global Financial Centres Index. The DIFC includes 17 out of the top 20 banks worldwide, more than 200 asset management and consulting companies, and approximately 60 major funds. The DIFC Court, the only English-speaking common law court in the region, is situated within the DIFC territory. The court provides a unique and independent legal framework, offering a favorable environment for investors and contributing to the economic growth of the UAE. Therefore, the DIFC has been exempted from the jurisdiction of the Emirate of Dubai and the UAE as a whole. The DIFC courts are independent from the UAE courts and have jurisdiction over civil and commercial disputes that arise under the DIFC regulations. This has made it possible to establish an autonomous and Sharia-independent legal jurisdiction of the DIFC within the federal state. In general, the DIFC operates under its own legal and regulatory system, based on common law principles, which gives it a unique position in the region. The laws and regulations that govern the activities of the DIFC are established by the DIFC Authority, which is the governing body for the financial free zone. This allows companies to conduct their operations in accordance with international standards and best practices, while adhering to the regulations of the DIFC and the UAE.

This investigation includes the analysis of the data on the operations of the DIFC Court, which is available on its official website. The first-instance DIFC Court comprises two autonomous bodies: the Small Claims Tribunal and the Court of First Instance. The Small Claims Tribunal, established in 2007, is characterized by a specific limitation on the value of claims, which must not exceed 500,000 UAE dirhams. The Court of First Instance comprises four divisions: Civil & Commercial Division, Technology & Construction Division, Arbitration Division, and Digital Economy Court Division. Alongside the Court of First Instance, there exists the Court of Appeal that exclusively reviews decisions and judgments rendered by the former. However, it was impossible to access specific cases on the official website of the DIFC court, as the system requires authentication through a personal account as either a lawyer or party to the case.[67]

In 2020, the DIFC Court established the Arbitration Division, entrusted with the responsibility of adjudicating an ever-increasing number of arbitration cases. Due to its extensive national, regional, and global expansion, the DIFC Courts have equipped their specialized the Arbitration Division with the capacity to leverage their existing expertise in legal enforcement, thereby facilitating the recognition and implementation of arbitral judgments. To further support the operations of the Arbitration Division, the DIFC Courts also launched an Arbitration Working Group in the same year.

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[65] World Constitutions, *United Arab Emirates's Constitution of 1971* (1971) https://worldconstitutions.ru/?p=89 [accessed 3 December 2024]
[66] Permanent Committee for Human Rights, *Legal and Judicial System* (2022) https://www.pchr.gov.ae/en/priority-details/uae-judicial-system [accessed 3 December 2024]
[67] Dubai International Financial Center, *Case Bundle* (2022) https://www.difccourts.ae/difc-courts/case-bundle [accessed 3 December 2024]

Thus, mediated agreements and arbitration awards represent the most prevalent methods for resolving corporate disputes. This trend is evolving dynamically in both countries with a civil law system and those with an Anglo-Saxon legal tradition. The analysis has examined a vast body of literature on this subject and explored the experiences of numerous foreign jurisdictions. Almost all studies in this field converge to a single conclusion: the future of corporate conflict resolution lies in alternative, out-of-court mechanisms. The analysis of research on corporate dispute resolution in both Romano-Germanic and Anglo-Saxon systems is presented below.

The Scheinman Institute on Conflict Resolution at Cornell University's School of Industrial and Labor Relations conducted a comprehensive analysis under the direction of David B. Lipsky and Ronald L. Seeber. The scope of their research encompassed prominent American corporations listed in the Fortune 1000. The objective of the study was to delve into the mechanisms employed by these companies in addressing corporate conflicts, including alternative dispute resolution strategies. The authors explored various obstacles that arise during the resolution of corporate disputes, with a particular focus on the challenges associated with implementing legal frameworks when employing alternative dispute resolution (ADR) approaches. One of the problems is that mediation and arbitration proceedings are often not constrained by stringent legal standards, such as those governing the admissibility of evidence or the procedure for interrogating witnesses and third parties. This can result in legal departments within companies opting for traditional litigation when dealing with critical legal principles or setting precedents. Another concern raised in the study pertains to the absence of procedural limitations in mediation and arbitration, potentially leading to instances of abuse. Additionally, some companies have noted that arbitration can sometimes become as expensive and difficult as litigation, diminishing the appeal of ADR methods.[68] Indeed, the issue of the potential escalation in the fees for mediation and arbitration services is a matter of great concern. The lack of a cap or formula for determining their remuneration by the legislature exacerbates this issue. Furthermore, arbitration clauses also fail to address this critical aspect. In the context of corporate disputes, arbitration fees may even surpass the traditional costs associated with litigation.[69]

Corporate legal counselors of large-scale business entities should proactively safeguard themselves against potential conflicts even before they arise. To this end, corporate lawyers have started to incorporate various scenarios for settling corporate disputes into business agreements and contracts. This phenomenon has even acquired its own term in legal terminology: the proactive methods of corporate dispute prevention. These methods have been explored by numerous studies methods. A study titled "From Reaction to Proactive Action: Dispute Prevention Processes in Business Agreements," authored by James P. Groton and Helena Haapio, examines proactive approaches to preventing disputes in business contracts.[70] Proactive methods are preventive and aimed at minimizing the risks of

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[68] David B. Lipsky and Ronald L. Seeber, *The Appropriate Resolution of Corporate Disputes: A Report on the Growing Use of ADR by U.S. Corporations* (Ithaca, NY: Institute on Conflict Resolution, 1998) http://digitalcommons.ilr.cornell.edu/icr/4 [accessed 3 December 2024]; World Constitutions, *United Arab Emirates's Constitution of 1971* (1971) https://worldconstitutions.ru/?p=89 [accessed 3 December 2024]

[69] Malcolm Rogge, *UNDERSTANDING UNILATERAL, BILATERAL, AND MULTILATERAL APPROACHES TO MEANINGFUL STAKEHOLDER ENGAGEMENT IN THE DESIGN AND IMPLEMENTATION OF OPERATIONAL GRIEVANCE MECHANISMS*, *The Routledge Handbook on Meaningful Stakeholder Engagement*, 2024 https://doi.org/10.4324/9781003388227-17

[70] James Groton and Helena Haapio, 'From Reaction to Proactive Action: Dispute Prevention Processes in Business Agreement', in *IACCM EMEA Academic Symposium, London (Vol. 9)* (London: IACCM, 2007), pp. 1–15

corporate disputes. The aforementioned research analyzes the strategies employed by companies to proactively establish dispute prevention and resolution frameworks within their contracts in order to mitigate the likelihood of conflicts and foster harmonious business relationships between counterparties. The authors underscore the significance of implementing procedural mechanisms that facilitate the early management and resolution of disputes, thereby avoiding legal proceedings. The focus of this investigation lies in the realm of business contracts and agreements between Finland and the United States. The analysis encompasses contracts originating from two distinct legal systems: the Scandinavian (a branch of the Romano-Germanic legal family) and the Anglo-Saxon. The study has been conducted on an international scale, with the participation of experts who specialize in contract law and dispute resolution. The authors of the research have analyzed the best practices and methodologies employed in preventing corporate conflicts across various sectors, including the construction industry. The potential for their implementation in other business settings has also been explored. For instance, cases from the construction sector have shown that proactive measures such as the establishment of dispute review boards (DRBs) are effective in preventing disputes. These cases serve as exemplars of how companies can prevent and resolve conflicts, minimizing the associated costs and delays associated with litigation. The authors also provide instances of successful implementation of these approaches in other industries, confirming the need to tailor these practices to suit the unique requirements of each contract.

The scholarly work titled "State of the Art: A Review Essay on Comparative Corporate Governance: The State of the Art and Emerging Research" (by John W. Cioffi) presents a comprehensive analysis of contemporary trends and research methodologies in the realm of comparative corporate governance and dispute resolution within corporations. This research delves into the hot topics of this subject, examining the advancements made by various nations in this field. The author scrutinizes the impact of globalization on corporate governance practices, the transformations in legal and economic frameworks, and the distinctive features of national corporate legal systems, such as those prevalent in the United States, Germany, and Japan. John W. Cioffi discusses how corporate law and corporate governance have become key elements of legal policy, as well as how diverse approaches to corporate law across nations shape legal culture, influence economic efficiency, and contribute to political stability. Of particular significance is Cioffi's bold exploration of how the Anglo-Saxon legal tradition impacts continental legal systems. The study highlights how theories and analytical methods inherent in the Anglo-American legal framework are increasingly permeating European legal scholarship, influencing the formulation of corporate laws in countries traditionally rooted in continental legal traditions, such as Germany. To substantiate this statement, it is necessary to quote from the article that underscores the integration of Anglo-Saxon principles in continental legal frameworks: "The influence of contemporary economic theory permeates the entire volume and provides a testament to the growing influence of American-style law and economics and social science analysis in European legal scholarship. This development bestows a mixed blessing. On the one hand, these new conceptual frameworks and analytical techniques may provide some welcome relief from the hermetically sealed doctrinal analysis common in Continental, and especially German law.".[71] Thus, the author notes the changes in corporate

https://www.researchgate.net/publication/242148632_From_Reaction_to_Proactive_Action_Dispute_Prevention_Processes_in_Business_Agreements [accessed 3 December 2024]

[71] John W. Cioffi, 'State of the Art: A Review Essay on Comparative Corporate Governance: The State of the Art and Emerging Research', *American Journal of Comparative Law*, 48 (2000), 501

law and legal structures that occur under the influence of the Anglo-Saxon legal philosophy, particularly derived from British legal traditions. The analysis extends to exploring the challenges associated with integrating these concepts into legal frameworks that have historically been rooted in civil law principles. The study reveals how these alterations impact the legal and institutional frameworks of corporate governance within continental legal systems.

The views of Kazakh civil law experts on the incorporation of Anglo-Saxon legal principles into the resolution of commercial disputes within the legal framework of the Republic of Kazakhstan are characterized by a degree of circumspection. This is a natural response, given the relative youth of Kazakh legal scholarship. In 2015, one of the most experienced scholars in the field of Kazakh law, Farhad S. Karagusov, expressed a critical stance towards the adoption of British legal standards. His article entitled "On the Implementation of British Legal Norms in the Legislation of the Republic of Kazakhstan," commences with some criticism, stating: "In the month of January 2015, the Institute for Private Law, under the leadership of Professor Maidan K. Suleimenov, received a request from the Ministry of Justice of the Republic of Kazakhstan seeking an opinion on 'the implementation of British legal norms in Kazakhstan's legislation.' The response of our Institute of Private Law, I venture to suggest, was rather unequivocal and conveyed a distinctly negative stance not only towards the phrasing of the question but also towards such a derogatory perception of the indigenous legal culture of the Kazakh nation".[72]

Several continental countries with traditionally civil law systems have incorporated some aspects of the Anglo-Saxon legal system into their corporate regulations. The corporate law of the Netherlands is a comprehensive body of statutes, primarily codified in Book 2 of the Civil Code of the Netherlands. These regulations govern the operations of juridical persons. Juridical persons in the Netherlands can be categorized into two types: *NaamlozeVennootschap* (N.V.), which are public limited companies, and *BeslotenVennootschap* (B.V.), which are private limited companies. N.V. companies allow their shares to be freely traded on securities markets. B.V. companies operate as closed joint stock corporations, with shares typically restricted to a limited circle of shareholders. Both types of companies are governed by the corporate law of the Netherlands and have substantial differences in terms of governance. The book titled "Corporate Law and Practice in the Netherlands. Second Edition" by Steven R. Schuit (Ed.) explores how the regulations and directives issued by the European Community can lead to the development of a unified legal framework across all member states. This process can be seen as analogous to the efforts at harmonization in the Anglo-Saxon legal systems.[73] A form of legal unification within the European Union occurs when national laws are aligned through directives and treaties, resulting in a shared legal foundation. This concept bears some resemblance to certain aspects of the common law system.

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https://heinonline.org/HOL/LandingPage?handle=hein.journals/amcomp48&div=26&id=&page= [accessed 3 December 2024]

[72] Farkhad S. Karagusov, 'On the Implementation of British Legal Norms in the Legislation of the Republic of Kazakhstan', in *Online Zakon* (2015) https://online.zakon.kz/Document/?doc_id=33424293 [accessed 3 December 2024]

[73] James Groton and Helena Haapio, 'From Reaction to Proactive Action: Dispute Prevention Processes in Business Agreement', in *IACCM EMEA Academic Symposium, London (Vol. 9)* (London: IACCM, 2007), pp. 1–15 https://www.researchgate.net/publication/242148632_From_Reaction_to_Proactive_Action_Dispute_Prevention_Processes_in_Business_Agreements [accessed 3 December 2024]; Steven R. Schuit, *Corporate Law and Practice of the Netherlands* (The Hague: Kluwer Law International, 2002)

The legal framework of the Kingdom of the Netherlands has successfully integrated the norms of common law into its national legal system, preserving them while also incorporating the transnational *ius positivum*, the Law Merchant, and public and private international law. The influence of common law manifests itself through the prominent role of constitutional conventions and judicial precedents in shaping Dutch law, as well as through the use of relatively straightforward legal techniques. One example of this interaction between the legal traditions of common law and continental law is the Civil Code of 1992.[74]

With regard to corporate disputes in the Netherlands, the Dutch parliament has recently introduced sweeping changes to the framework governing the resolution of corporate disputes between shareholders in this jurisdiction. The current system in place in the Netherlands is flawed and underutilized by parties involved. Shareholder disputes are predominantly resolved through expensive circumventive measures, such as the so-called request procedure to the Enterprise Chamber. Under the newly introduced system for resolving corporate disputes, the Enterprise Chamber becomes the sole competent court for adjudicating disputes between shareholders. The relevant criteria are currently undergoing refinement and expansion. The process of settling corporate disputes is anticipated to be less formal, allowing the Enterprise Chamber to resolve relevant disputes. Consequently, the objective of this new system is to expedite the settlement of all claims and conflicts among parties.[75] Thus, the Anglo-Saxon legal system impacts the corporate law of the Netherlands, particularly in terms of resolving corporate conflicts. In the Netherlands, corporations, particularly those listed on global exchanges, frequently incorporate Anglo-Saxon principles, such as the establishment of review boards, a division of responsibilities and authorities between the chairman of the board and the chief executive officer, as well as aspects of the Anglo-Saxon approach to safeguarding shareholders' rights.[76]

As of 1 January 2023, amendments to Swiss corporate law have introduced the possibility for companies to include arbitration clauses in their articles of association for the resolution of corporate disputes. Such clauses are legally binding on the company's governing bodies, including the general meeting of shareholders, the board of directors, and the auditors, unless otherwise stipulated by agreement. Where an arbitration clause is adopted, corporate disputes are to be resolved exclusively through arbitration, thereby removing such matters from the jurisdiction of state courts and placing them within a private dispute resolution framework. This legislative development was preceded by the Swiss Arbitration Centre's publication in 2022 of a model arbitration clause and supplementary rules specifically designed for corporate law disputes.

Within the Swiss legal context, the concept of a corporate dispute is expressly defined in statutory law. Article 697n of the Swiss Code of Obligations characterises corporate disputes as all legal matters relating to the existence and functioning of a company, thereby encompassing a broad range of claims governed by corporate law. Such disputes include, inter alia, actions brought against members of corporate governing bodies, claims concerning the restitution of unlawfully obtained benefits, and challenges to resolutions adopted by the general meeting of shareholders.

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[74] Philip W. Schreurs, 'The Introduction of a New Shareholder Dispute Resolution System in the Netherlands', *European Company Law*, 21.4 (2024), 76–81 https://doi.org/10.54648/eucl2024011

[75] Maak, 'The Enterprise Chamber of Amsterdam', in *Maak Law* (2023) https://www.maak-law.com/the-enterprise-chamber-of-amsterdam/ [accessed 3 December 2024]

[76] Noora Arajärvi and Livia Holden, 'THE LEGAL PROCEDURES GOVERNING CULTURAL EXPERTISE', 2025, 176–212 https://doi.org/10.4324/9781003544258-9

The above disputes concern legal proceedings related to corporations, governance, and obligations within a company.[77] Recent years have seen a shift in Swiss corporate law towards a greater focus on shareholder interests, which is a hallmark of the Anglo-Saxon legal tradition. In particular, Swiss multinational corporations are adopting practices aimed at enhancing transparency and accountability to their shareholders, a trend that is characteristic of Anglo-Saxon jurisdictions. According to a survey conducted by Queen Mary University of London, Switzerland stands out as a highly preferred destination for arbitration proceedings. This appeal stems from a combination of factors, including its reputation for political neutrality, a well-developed legal framework, and the presence of highly qualified arbitration professionals.[78]

German corporate law places strong emphasis on the timely and fair resolution of corporate disputes. The legal framework governing such disputes is primarily regulated by key legislative instruments, including the Aktiengesetz (Law on Joint Stock Companies), the GmbH-Gesetz (Law on Limited Liability Companies), and the Handelsgesetzbuch (Commercial Code). These statutes establish the fundamental principles of corporate governance and provide mechanisms for protecting the rights and interests of shareholders, management bodies, and other stakeholders. Corporate disputes in Germany are generally resolved through judicial proceedings; however, alternative dispute resolution mechanisms, such as mediation and arbitration, are also widely utilised as effective means of avoiding lengthy and costly litigation.

Within this legal context, corporate conflicts in Germany commonly arise from disagreements among shareholders, including disputes over dividend distribution, voting rights, and the validity of shareholder resolutions. Disputes may also occur between directors or company managers concerning the strategic management and direction of the enterprise. In addition, corporate conflicts frequently emerge in the context of mergers and acquisitions, where parties may contest the terms of transactions or allege breaches of contractual obligations.[79] At the same time, German corporate law distinguishes between such definitions as "corporate dispute" and "corporate conflict." According to John Burton (1990), a dispute is a short-term disagreement that can lead to the disputing parties coming to some kind of mutual solution. Conflict, on the contrary, is a long-term phenomenon and has deep-rooted problems that are considered "non-negotiable".[80]

Despite Germany's adherence to the civil legal traditions inherent in the continental legal system, certain aspects of its corporate law can be traced back to the Anglo-Saxon legal framework. One notable example is the introduction of two-tier board structures in companies during the 1990s.[81] This system, in which the supervisory board and the management board share governance responsibilities, is partially inspired by practices

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[77] Frank Spoorenberg and Boris Catzeflis 'The 2023 Supplemental Swiss Rules for Corporate Law Disputes' *ASA Bulletin*, 41.2 (2023), 318–333 https://www.nkf.ch/app/uploads/2023/09/ASAB_40-2_SPOORENBERG-CATZEFLIS_Offprint.pdf [accessed 3 December 2024]

[78] Queen Mary University, *International Arbitration Survey: The Evolution of International Arbitration* (2018) https://www.acerislaw.com/wp-content/uploads/2023/03/LON0320037-QMUL-International-Arbitration-Survey-2021_19_WEB.pdf [accessed 3 December 2024]

[79] Umida Bekmirzaeva, 'The Significance of Classification of Corporate Disputes', *Eurasian Journal of Law, Finance and Applied Sciences*, 3.4 (2023), 208–216 https://doi.org/10.5281/zenodo.7854949

[80] Raymond Shonholtz, 'A General Theory on Disputes and Conflicts', *Journal of Dispute Resolution*, 403 (2003), 6 https://scholarship.law.missouri.edu/jdr/vol2003/iss2/6 [accessed 3 December 2024]

[81] Sabrina Bruno, 'Foundations of Business and Company Law: US, UK, Italy and the European Context', 2024, 1–156 https://doi.org/10.1007/978-3-031-71885-4

employed in Anglo-Saxon jurisdictions. The primary source of information regarding the implementation of a two-tier governance system in Germany is the German corporate legal framework, specifically Aktiengesetz, which governs the administrative structure of companies. This law precisely formalized the two-tier system, comprising Aufsichtsrat (Supervisory Board) and Vorstand (Management Board), regulating the operations of joint-stock companies in Germany.[82] This governance structure has gained prominence in German enterprises and bolstered the corporate governance framework. The primary responsibility of the Supervisory Board is to control the operations of the management board and safeguard the interests of shareholders. The Management Board assumes the day-to-day operational management of the business.[83]

In France, the merchant (commercial) code, known as *the Code de Commerce de France*, governs corporate relations and the process of resolving corporate disputes. This code often mandates a compulsory procedure for exploring the possibility of conciliation between the parties involved. For example, according to Article L. 145-35 (Section 6 governing rental issues), disputes arising in the context of the implementation of Article L. 145-34 are adjudicated by a departmental conciliation committee, which comprises an equal number of representatives from both lessors and lessees, along with a panel of experts in the field. The panel should endeavor to reconcile the parties and render a judgment. Article L. 145-34 governs the grounds for corporate disputes between commercial tenants.[84] The corporate law reform in France is part of a broader effort to establish new economic and legal frameworks, with the government effectively serving as a guardian of this sector in pursuit of the nation's economic well-being. France has also incorporated elements of the Anglo-Saxon legal system into its corporate regulations, particularly in terms of capital market regulation and corporate governance. This entails the practice of independent audits and transparency measures that are characteristic of Anglo-Saxon jurisdictions. The Code de Commerce de France employs the term "audit" more than four hundred times. The above review makes it possible to categorize the fundamental regulatory mechanisms governing corporate disputes by country in a Table 2.

Table 2. Key Regulatory Mechanisms Governing Corporate Disputes

Country	Legal system	Legislation governing corporate disputes	Implementation elements
The United Arab Emirates 	Islamic legal system. The main source of legislation is Sharia.	**Federal Decree-Law No. 32 of 2021 on Commercial Companies.** **Competition Law.** **Law on the Rules and Certificates of Origin.** **Arbitration Law.**	Arbitration, mediation, negotiations, legal proceedings, the DIFC independent court.
The Netherlands 	Continental	The Dutch Code of Civil Procedure. **Law on arbitration** - Arbitragewet.	Arbitration, eCourt (online arbitration).
Switzerland	Continental	The Swiss Civil Code.	Arbitration.

[82] Norton Rose Fulbright, 'German Stock Corporation Act (Aktiengesetz)' (2016) https://www.nortonrosefulbright.com/-/media/files/nrf/nrfweb/imported/german-stock-corporation-act.pdf [accessed 3 December 2024]

[83] Putu Bagus Dananjaya and others, 'Indonesian Advocates ' Success Fee Agreements : Policies and Challenges', 24.3 (2025), 722–45 https://doi.org/https://doi.org/10.53955/jsderi.v3i3.150

[84] Cesare Cavallini, 'Anglo-Saxon Res Judicata Culture for Civil Law Systems', *Northwestern Journal of International Law and Business*, 45.1 (2024), 1–31 https://www.scopus.com/inward/record.uri?eid=2-s2.0-105002795817&partnerID=40&md5=482ccf44f835aded15f1aa1e6159f8ae

		The Swiss Code of Obligations. Swiss Private International Law Act (PILA). Swiss Rules of Arbitration. Supplemental Swiss Rules for Corporate Law Disputes. Swiss Rules for Commercial Mediation.	
Germany 	Continental	The Civil Procedure Code of Germany. Aktiengesetz. Handelsgesetzbuch. Commercial **Arbitration Law**. Model Law on **Arbitration**.	Arbitration.
France 	Continental	The Civil Code of France. Code de Commerce de France. Rules for Mediation.	Arbitration, mediation.
Kazakhstan 	Continental	The Civil Code of Kazakhstan The Civil Procedure Code of Kazakhstan The Commercial Code of Kazakhstan.	Arbitration, mediation.

Sources: compiled by the authors from various sources

3.3. Deliberations on the compatibility of foreign legal practices with Kazakhstan's legislation

Thus, the common law elements pertaining to the regulation of corporate conflicts are reflected in the legal systems of countries with a continental legal tradition, often seamlessly integrated into codified legislation. However, this integration remains a challenge for Kazakhstan.[85] At present, there is a lack of clarity regarding the essence of corporate relationships that are subject to legal regulation within Kazakhstan's legal community, academic circles, business environment, and legislative bodies. Moreover, there is no universally accepted definition or content for the concept of corporate law as a distinct branch of law. This ambiguity contributes to the current imperfections in the corporate legislation of Kazakhstan, creating significant obstacles to its enhancement and modernization.[86]

In the context of deliberations on these matters, a number of Kazakh scholars rightly highlight the endeavors to implement mechanisms for the introduction of a corporate governance code.[87] The Corporate Governance Code of the Republic of Kazakhstan was developed in strict accordance with the national laws, taking into consideration the G20/OECD Principles of Corporate Governance as well as Kazakh and global corporate governance practices. The primary objective of this Code is to serve as a valuable tool for

[85] Hulman Panjaitan Wiwik Sri Widiarty Josua Halomoan Napitupulu, Mompang L. Panggabean, 'An Integrated Legal Framework for Digital Investment Fraud Prevention in Indonesia', 3.3 (2025), 540–67 https://doi.org/https://doi.org/10.53955/jsderi.v3i3.154

[86] Khabibullo N Khimatov, 'Legal Models of Regulation of Marital Relations on Material Support in Russia and Iran: Comparative Legal Study', *Vestnik Sankt-Peterburgskogo Universiteta. Pravo*, 16.3 (2025), 781–95 https://doi.org/10.21638/spbu14.2025.312

[87] Gulnara Baibosynova and others, 'Theory and Practice of Corporate Governance Strategy Implementation in Kazakhstan', *Bulletin of the National Academy of Sciences of the Republic of Kazakhstan*, 6 (2022), 256–270 https://doi.org/10.32014/2022.2518-1467.406; Rolan M. Jangarashev, 'How Can the Effectiveness of the "Comply or Explain" Principle in the UK Corporate Governance Code Be Improved?' *Bulletin of the Institute of Legislation and Legal Information of the Republic of Kazakhstan*, 2.69 (2022), 67–72 https://doi.org/10.52026/2788-5291_2022_69_2_67

enhancing corporate governance within Kazakhstan's business entities, fostering the long-term sustainability of national businesses, the national economy, and society as a whole. The Code aims to ensure transparency in governance by establishing mechanisms for interaction between the management of the company, its board of directors, shareholders, and other stakeholders, as outlined in the Code. The Code, which was endorsed by the decision of the Presidium of the National Chamber of Entrepreneurs of the Republic of Kazakhstan "Atameken" in 2021, does not contain provisions for resolving corporate disputes.[88]

The Corporate Governance Code serves as the national standard for corporate governance in Kazakhstan, applicable to all companies (organizations) operating in the forms of joint-stock companies and limited liability partnerships. The Code permits accession thereto by resolution of a general meeting of the shareholders/members of a company. In this instance, the Code becomes legally binding upon the company that adheres to it, save for instances where it is not feasible to comply with specific provisions. Under such circumstances, the company is obliged to provide a formal explanation of the reasons to its shareholders, stakeholders, and other relevant parties. In simple terms, this code is binding only for those entities that have voluntarily chosen to be bound by it. Consequently, the standards enshrined therein are not binding on companies in Kazakhstan.[89]

To conclude, it is worth noting that Kazakhstan has made repeated attempts to incorporate the principles of the Anglo-Saxon legal system into its legal framework, including with regard to corporate litigation. The question of whether these efforts can be deemed successful remains unanswered. Civil law scholars continue to debate the process of integrating one legal system into another.[90]

In earlier works, efforts to incorporate elements of Anglo-Saxon legal systems into the legal frameworks of post-Soviet nations were often met with profound skepticism and resistance, often being perceived as "disconnected from reality".[91] However, over time, a degree of this skepticism has diminished. According to some Kazakh legal experts, there are certain aspects of common law that can be implemented without compromising the fundamental principles of the nation's legal system. These include, but are not limited to, the dissolution of state-owned enterprises, the incorporation of corporate law norms into the Civil Code, and the introduction of provisions on personal liability for debts incurred by the founders and directors of companies.[92]

Simultaneously, addressing the question of why the elements of common law pertaining to corporate disputes have not been codified in Kazakhstan, several arguments can be put

[88] Yseult Marique and Emmanuel Slautsky, 'The Civil Service in Belgium: Between Fragmentation and Common Principles', 2025, 96–113 https://doi.org/10.4324/9781003458333-8
[89] Sophie Turenne and Mohamed Moussa, 'Research Handbook on Judging and the Judiciary', 2025, 1–424 https://www.scopus.com/inward/record.uri?eid=2-s2.0-105024639788&partnerID=40&md5=7a61bd66d44a2b574374c3d199d1a7f4
[90] Bianca Böhme, 'Iura Novit Curia in Investment Treaty Arbitration: The Allocation of Responsibilities over the Ascertainment of Law', *European Yearbook of International Economic Law*, 45 (2025), 1–184 https://doi.org/10.1007/978-3-032-02402-2
[91] A. V. Naumov and others, *The Rule of Law and Problems of Its Enforcement in Law Enforcement Practice* (Moscow: Statut, 2009)
[92] Josua Halomoan Napitupulu, Mompang L. Panggabean.

forth. Firstly, Kazakhstan has historically been aligned with the Romano-Germanic legal system, characterized by detailed statutes and regulations, with judges serving as enforcers of the law rather than its interpreters, akin to common law jurisdictions. Transitioning to a system in which judicial decisions set precedents necessitates a radical shift in legal mindset and practice.[93] Secondly, the principles of common law encompass flexibility, contractual freedom, and the significance of judicial precedent. In the context of the Republic of Kazakhstan, where the judiciary is still evolving within the confines of market-oriented principles, implementing these principles requires robust institutional support to mitigate the risks associated with instability and potential abuse. Thirdly, certain aspects or components of common law frequently collide with the pre-existing legal framework of the country. Therefore, there is a need to amend numerous regulations and standards. Furthermore, the sustainable integration of common law principles demands experts who are well-versed in the Anglo-Saxon system. The shortage of such professionals in Kazakhstan necessitates extensive training for judges, attorneys, and legal practitioners to adapt to the new system, which entails substantial time and resources. Consequently, elements of common law continue to be a niche phenomenon primarily confined to the AIFC and have not yet permeated the broader legal system of Kazakhstan.[94]

4. Conclusion

The analysis of the incorporation of common law elements into Kazakhstan's corporate dispute resolution framework, the examination of their enforcement in civil and mixed legal systems, and the assessment of institutional practice through the Astana International Financial Centre (AIFC) Court reveal both the opportunities and limitations of legal convergence in the national legal order. These findings highlight the uneven nature of adaptation, the structural constraints of domestic corporate law, and the growing significance of specialised institutions in shaping effective dispute resolution mechanisms. First, this study demonstrates that the incorporation of selected common law elements into Kazakhstan's legal framework, particularly in the field of corporate dispute resolution, reflects a broader trend of global legal convergence. Comparative analysis shows that common law mechanisms governing corporate disputes have been successfully integrated into several civil law and mixed legal systems without undermining the coherence of codified legislation. However, in Kazakhstan, this process remains limited due to the absence of a clear doctrinal understanding of corporate law and corporate relations. The lack of consolidated definitions for key concepts such as "corporate dispute" and "corporate conflict" continues to hinder consistent legal interpretation and effective dispute resolution. As a result, the integration of common law practices has not yet achieved systemic significance within the national legal order. Second, the analysis of enforcement practices in jurisdictions with civil and mixed legal systems, as well as the experience of the Astana International Financial Centre (AIFC) Court, indicates that common law–based procedures can enhance efficiency, predictability, and party autonomy in resolving corporate disputes. The judicial practice of the AIFC Court illustrates that common law standards may offer practical advantages, particularly for disputes involving foreign investment. Nevertheless, the application of such standards in Kazakhstan remains confined to a specialised institutional setting and has not been fully harmonised with the

[93] Dina Hadad and Livia Holden, 'CULTURAL EXPERTISE IN COMMON LAW AND CIVIL LAW LEGAL SYSTEMS', 2025, 155–75 https://doi.org/10.4324/9781003544258-8
[94] Arajärvi and Holden.

national judicial system. This institutional separation limits the broader impact of common law mechanisms and highlights the need for greater coordination between specialised courts and the domestic judiciary. Third, the findings of this study suggest that further development of corporate dispute resolution in Kazakhstan requires targeted legislative and institutional measures rather than wholesale legal transplantation. Priority areas include the clarification and classification of corporate disputes within civil legislation, the expanded use of arbitration clauses in contracts involving foreign parties, and the establishment of efficient procedures for the enforcement of arbitral awards. In addition, institutional capacity should be strengthened through the formation of a pool of specialised arbitrators and the formal recognition of the role of corporate lawyers. Greater integration of the AIFC Court's jurisprudence into the national system of court decisions would also contribute to legal coherence. Overall, the selective and contextual adaptation of common law elements offers a pragmatic pathway for improving corporate dispute resolution while preserving the foundations of Kazakhstan's civil law tradition.

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Arajärvi, Noora and Livia Holden, 'THE LEGAL PROCEDURES GOVERNING CULTURAL EXPERTISE', 2025, 176–212 https://doi.org/10.4324/9781003544258-9

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