

**PROJECT INFORMATION DOCUMENT (PID)
APPRAISAL STAGE**

Report No.: PIDA3286

Project Name	Justice Sector Institutional Strengthening Project (P143274)
Region	EUROPE AND CENTRAL ASIA
Country	Kazakhstan
Sector(s)	Law and justice (100%)
Theme(s)	Public expenditure, financial management and procurement (10%), Managing for development results (25%), e-Government (15%), Access to law and justice (15%), Law reform (10%), Legal institutions for a market economy (25%)
Lending Instrument	Investment Project Financing
Project ID	P143274
Borrower(s)	Republic of Kazakhstan
Implementing Agency	Ministry of Justice
Environmental Category	C-Not Required
Date PID Prepared/Updated	27-Jan-2014
Date PID Approved/Disclosed	31-Jan-2014
Estimated Date of Appraisal Completion	29-Jan-2014
Estimated Date of Board Approval	14-Mar-2014
Decision	

I. Project Context

Country Context

Over the past decade, Kazakhstan has built a record of strong macroeconomic management, a rules-driven fiscal framework. However, Kazakhstan was affected by the global economic crisis. This encouraged the Government to place greater emphasis in its development strategy on growth from non-oil sources. "Kazakhstan's Way to 2050: Common Goal, Common Interests, Common Future" lays out the goal of joining the top 30 most developed countries of the world. The strategy is based on economic diversification, innovation, investment in human capital and international trade integration. In support of these goals, the strategy seeks to strengthen governance and the quality of public services and improve the business climate.

Kazakhstan has made significant progress in strengthening its business climate and in its adherence to international governance standards. Kazakhstan has moved up in the global Doing Business ranking from 67th position in 2011 to 50th in 2014. In October 2012 Kazakhstan became a member of the UN Human Rights Council and is party to all but one of the UN human rights treaties, the exception being the Convention on Migrant Workers. Kazakhstan chaired the Organization for

Security and Cooperation (OSCE) in 2011. It works closely with the European Union (though it is not a member of the Council of Europe except for its membership of the Venice Commission) and with numerous multilateral and bilateral partners.

Notwithstanding the progress to date, significant institutional and governance challenges remain, constraining the state's ability to effectively formulate and implement policies to boost poverty reduction and shared prosperity. Feedback from the private sector and from analytics such as the Business Environment and Enterprise Performance Surveys (BEEPS) and Life in Transition Surveys (LiTS), for example, consistently point to impediments to private sector growth. These include low satisfaction levels with service delivery of civil courts, the relatively high prevalence of unofficial payments to these courts and corruption in government procurement and contracting. Alongside these governance concerns Kazakhstan is characterized by uneven institutional capacity and low public trust in key check-and-balance institutions such as the courts.

On January 17, 2014, President Nazarbayev, in his annual State of the Nation Address, provided specific guidance to the Government in achieving Kazakhstan's longer term vision embodied in the 2050 Strategy, stressing the need to improve the efficiency of public institutions by promoting fair competition, justice and the rule of law and strengthening interactions with NGOs and the business sector.

Kazakhstan's overall development strategy is supported by long-term sector strategies called Roadmaps. Kazakhstan's justice sector roadmap has adopted a three-pronged plan to catalyze private sector growth and improve service delivery: first, improving the legal and institutional framework for private sector development, employment generation and delivery of justice-related services; second, improving the delivery of key Ministry of Justice-provided services critical to private sector functioning and access to justice; and third, improving judicial functioning and professionalism.

Sectoral and institutional Context

Over the last decade Kazakhstan has made considerable progress, for example, on modernizing its budget preparation and budget execution processes, its public investment programming, its revenue administration (tax and customs) entities, and – more recently – providing citizens with a suite of electronic applications through which public services can be accessed electronically. The authorities now desire to focus attention on strengthening the institutional capacity, operational effectiveness and public trust of selected entities in the judicial and executive branches, which together provide key justice services to citizens and firms. The structure and functions of the entities relevant to this project are shaped by the Constitution of the Republic of Kazakhstan, laws, and other regulatory legal acts and treaties in force, including the Constitutional Law on the Judicial System and the Status of Judges in the Republic of Kazakhstan. The key sector actors relevant to the project comprise the judiciary, the prosecution, the Ministry of Justice (MOJ), the Ministry of Economy and Budget Planning (MEBP) and the Ministry of Regional Development (MRD).

In recent years Kazakhstan has taken measures to modernize its justice system to increase institutional capacity, operational efficiency, service quality and public trust. These efforts include amendment of key legislation (the Criminal Code, Criminal Procedural Code, Criminal Executive Code, Administrative Code, Civil Procedural Code and Commercial Code) and approval of guiding policy instruments (notably the adoption of a Legal Policy Concept and an Action Plan, a National

Human Rights Plan 2009-2012, a Strategy to reform the prison system 2012-2015 and a strategic plan for the MOJ for 2011-2015).

The Legal Policy Concept for 2010-2012, adopted in 2009, guides improvements in the legislative framework. An Action Plan adopted by a Government Resolution of March 13, 2013 (No. 238) tasks the MOJ with monitoring implementation. The Action Plan contains 28 actions and prescribes the outputs, the agencies responsible and implementation period. Most actions entail the drafting and submission of draft laws to Parliament. These include a draft constitutional law on the judicial system and status of judges, a draft criminal code and a draft criminal procedural code. The Action Plan also requires the drafting and signing of bilateral agreements on provision of mutual legal assistance in criminal matters, extradition of criminals and transfer of sentenced persons. A January 22, 2014 Presidential Decree amends this Legal Policy Concept to strengthen emphasis of disabled people, introduce elements supporting e-justice services, and enforce changes in civil and criminal procedures.

In February 2011 the Government approved a strategic plan for MOJ for 2011-2015, which seeks to improve the legal and institutional infrastructure in support of economic competitiveness, protect the rights of businesses and individuals, and ensure provision of public legal services in compliance with international standards and principles (Resolution of the Government of the Republic of Kazakhstan No. 95 of February 8, 2011). The strategic plan focuses on six problem areas that need urgent improvement: (i) the quality and process of legal drafting; (ii) enforcement of judicial decisions; (iii) forensic investigation; (iv) intellectual property rights; and (v) quality of public services provided by justice entities, the legal awareness of citizens and their access to legal aid and advice. The Strategy for prison reform places high priority on providing sustainable employment to ex-offenders and their families. Municipalities and the MRD have been tasked with implementation of this action.

Private bailiffs were introduced in 2010, to create a competitive environment and thereby improve the quality and speed of enforcement and reduce corruption. The responsibility for enforcement of judicial decisions was also transferred to the MOJ from the courts. Certain related functions, such as those of the Supreme Court pertaining to execution of enforcement documents, and inventory, storage and assessment were also transferred to the MOJ for greater efficiency.

Measures to improve the quality, transparency and efficiency of justice services and citizens' trust in justice entities are being gradually introduced. Ten e-services were introduced by the MOJ in 2009, including electronic request for re-issuance of certificates (e.g. for marriage and divorce, for change of name, etc.).

The key issues and challenges facing Kazakhstan's justice sector include: low public trust in courts, related to concerns over integrity and corruption; slow and costly contract enforcement; limited access to justice for the poor and vulnerable; and over-regulation of the private sector. The World Bank's 2012 Life in Transition Survey (LiTS) indicates that less than 40% of the population trusts the courts. Irregular payments, including to civil courts, appear to be increasing: 13% of the Kazakhstan LiTS respondents reported that unofficial payments are usually or always needed. Furthermore, while satisfaction with service delivery for most public services in 2012 was higher than in 2006, user satisfaction with civil courts have fallen from 35% in 2006 to 27% in 2012 (compared to EU and EU-10 averages of 45%). Kazakhstan scores 2.9 on the Transparency International Corruption Perceptions Index, against EU and EU-10 averages of 4.9. Kazakhstan's

courts are still paper-based and largely rely on manual case processing, though there are plans to switch to IT-enabled systems to promote efficiency, accountability, and transparency, and thereby reduce opportunities for irregular payments. Random allocation of cases to judges was introduced in Kazakhstan but its implementation is incomplete, leaving a key risk factor for corruption unaddressed. Training of judges and their staff remains unsatisfactory, especially on laws and jurisprudence relevant for Kazakhstan (notably commercial and economic legislation), diminishing the judiciary's professional credibility. According to the Bank's Doing Business survey for 2014, it takes 38 procedures in total to enforce a contract in Kazakhstan. The total number of days to enforce a contract is 370 and cost is 22% of the value of claim. Of the 370 days, 220 days are required for the actual enforcement of the contract, while filing, service of notice, trial and judgment take 150 days. These figures have remained more or less constant since 2006 (except that the total number of days has been reduced from 390 in 2011 to 370 days since 2012). Kazakhstan lags behind other transition countries on ease of enforcing contracts, ranking twenty-eighth among 183 countries, while Russia ranks eleventh and Moldova twenty-sixth. (Enforcing a contract in Russia requires 36 procedures, takes 270 days and costs 13.4% of the amount of the claim, while in Moldova this requires 31 procedures, takes 327 days and costs 28.6% of the amount of the claim.) According to LiTS, civil proceedings are often delayed despite legally mandated timelines for case completion: 34.5% of the delay in contract enforcement is attributable to the judicial proceeding itself and to the time taken for final judgment. The main reason is that the current Civil Procedural Code is an obstacle to speedy resolution of disputes. While courts receive more than 500,000 civil cases annually, only 310,000 are resolved through judicial proceedings. The rest are resolved by time- and transaction cost-intensive reconciliation which take up a considerable amount of the judges' time and yet are not reflected in their case disposal figures. High caseloads and backlogs also delay judicial decisions. In the last five years, civil case inflows have increased by about 40 percent and the workload of civil courts is reaching unsustainably high levels. On average, civil court judges receive 60 cases a month (in high-volume jurisdictions such as Almaty and Astana oblasts the number is even higher at 150 cases per month or 7 cases per business day). This high caseload affects prosecutors as well due to their mandate and scope of responsibility: in 2012, 30 percent of total cases required participation of prosecutors. The new draft Civil Procedural Code will simplify judicial processes and promote alternative dispute resolution (ADR) mechanisms to facilitate mediation and conciliation (including a version of small claims courts). These measures, with appropriate technical support, can increase efficiency and – over time - public trust and confidence in the justice system. In addition, the legal and institutional framework for legal aid in place in Kazakhstan fails to meet the expectations of the public and the authorities: the cost of administration is high, program information and awareness is limited and eligible beneficiaries in remote/rural areas of the geographically sprawling country are in practice cut off from legal aid that they are eligible for. Business activities and relations between the state and businesses/the private sector and between business entities are regulated by numerous fragmented and sometimes contradictory laws and regulations. Besides creating regulatory uncertainty and scope for corruption, this legal and regulatory regime also limits the scope out of entrepreneurship, innovation and employment generation by the private sector.

II. Proposed Development Objectives

The Project Development Objective (PDO) is to improve (a) the key legal arrangements governing the relationship between the state and its businesses and citizens and (b) the efficiency and transparency of, and access to, selected justice services.

III. Project Description

Component Name

A. Strengthening the Implementation of Key Elements of the Legal and Institutional Framework

Comments (optional)**Component Name**

B. Improving MOJ Service Quality and Responsiveness

Comments (optional)**Component Name**

C. Strengthening Judicial Efficiency and Professionalism

Comments (optional)**Component Name**

D. Project Implementation and Coordination

Comments (optional)**Component Name**

Contingency

Comments (optional)**IV. Financing (in USD Million)**

Total Project Cost:	60.00	Total Bank Financing:	36.00
Financing Gap:	0.00		
For Loans/Credits/Others			Amount
Borrower			24.00
International Bank for Reconstruction and Development			36.00
Total			60.00

V. Implementation

The Ministry of Justice (MOJ) will be the project Implementing Agency (IA). The MOJ will designate a specific structural unit of the Ministry as the Project Implementation Unit (PIU). The PIU will be responsible for overall day to day project implementation, and its staff will include experts on project management, procurement, financial management, accounting, disbursement, logistical support, change management and monitoring and evaluation.

A Results Framework with project-specific indicators and actionable monitoring arrangements will be agreed with the authorities. The results indicators incentivize the institutionalization of public feedback including through periodic user surveys whose results will be published. As far as possible, the results indicators correspond to the indicators used by government entities for monitoring the justice sector action plan. The project will assist the authorities to develop a

monitoring and evaluation system for the justice sector. Some adjustment in the indicators used for monitoring and evaluating the project may be necessary as the government's monitoring system evolves.

VI. Safeguard Policies (including public consultation)

Safeguard Policies Triggered by the Project	Yes	No
Environmental Assessment OP/BP 4.01		x
Natural Habitats OP/BP 4.04		x
Forests OP/BP 4.36		x
Pest Management OP 4.09		x
Physical Cultural Resources OP/BP 4.11		x
Indigenous Peoples OP/BP 4.10		x
Involuntary Resettlement OP/BP 4.12		x
Safety of Dams OP/BP 4.37		x
Projects on International Waterways OP/BP 7.50		x
Projects in Disputed Areas OP/BP 7.60		x

Comments (optional)

This is a technical assistance project and there are no safeguard issues.

VII. Contact point

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