I. Introduction and Context

Country Context

Over the past decade, Kazakhstan has built a record of strong macroeconomic management and a rules-driven fiscal framework, and has strengthened public management and the business climate. However, Kazakhstan was not exceptional in being affected by the global economic crisis, which, consequently, shifted the emphasis in the government’s development strategy towards growth from non-oil sources.

That strategy is based on diversification, innovation, investment in human capital, and international trade integration for job creation. Increasing emphasis is being placed on strengthening governance and the business environment. An improvement in the quality of public services and measures to address skill shortages of the workforce are key policy initiatives. Successful implementation of Kazakhstan’s development agenda requires addressing key challenges, such as competitiveness and employment generation, safeguarding the environment and strengthening governance in public
administration and service delivery.

Hence, while Kazakhstan has made progress on issues such as private sector development, persistent challenges such as institutional capacity and, inter-agency coordination, continue to constrain the development and implementation of effective growth-enhancing and inequality-reducing strategies, adjudication of disputes, and protection of citizens’ and firms’ rights.

**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 electronically accessed. The authorities now desire to focus attention on strengthening the institutional capacity, responsiveness and transparency of Kazakhstan’s core justice sector entities across the judiciary and executive, which together provide a variety of justice services to citizens and the private sector. The reason for this focused attention lies in the challenges currently confronting these entities.

First, the courts. Data indicate that trust in courts is low, and irregular payments appear to be rising. The World Bank’s Life in Transition Surveys (LiTS) indicate that less than 40% of the population appears to trust courts, and such trust appears to be decreasing. Furthermore, irregular payments, including to civil courts, appear to be increasing. In addition, despite legally mandated timelines for completion, civil proceedings are often delayed and procedures and actual practices can benefit from further simplification and acceleration (e.g. 34.5% of the delay in contract enforcement is attributable to the judicial proceeding itself and to the time taken for judgment). In addition, as in many countries, high caseloads and backlogs (especially in courts in major urban centers) delay judicial decisions which adversely affect public trust and confidence in courts. 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 judicial efficiency, accountability, and transparency – and thereby reduce opportunities for rent-seeking and irregular payments. Lastly, training of judges and their staff (on legal issues as well as on administrative and IT issues) remains unsatisfactory, especially on branches of the law and jurisprudence relevant for Kazakhstan (such as commercial and economic legislation and jurisprudence), further diminishing the professional capability of the judiciary’s human resources. As a result, Kazakhstan’s judiciary is perceived to need long-term institutional support, modernization and change management.

Second, executive entities which provide justice-related services. These include the Ministry of Justice (MOJ), the Institute of Justice (IJ), the Ministry of Regional Development (MRD) and the Ministry of Economy and Budget Planning (MEBP).

The MOJ desires to improve its capability in four key areas where it has a primary responsibility:  
(a) Justice sector policy, strategy and evaluation capability – the MOJ policy and strategy unit has 23 personnel, who are tasked with the above functions and with pulling in inputs from the 1,700 MOJ personnel in the 16 MOJ Regional Offices across Kazakhstan. With a total MOJ personnel strength of 3,400 (including 1,500 in three specialist Committees) to perform the Ministry’s multifarious functions and tasks, the Ministry’s policy and strategy unit requires considerable strengthening if it is to play the role that similar units perform in more advanced countries.

(b) Enforcement of judicial decisions - contract enforcement in Kazakhstan is slow and costly:
61.5% of the time taken for contract enforcement is accounted for by execution of the judicial decision. Enforcing a contract in Kazakhstan requires 38 procedures (compared to 20 for Ireland, for example), takes 390 days (compared to 150 for Singapore, for example) and can cost up to 22% of the value of the claim (source: Doing Business 2011). These figures appear to have remained more or less constant from 2008-2011. In 2010, Kazakhstan introduced private enforcement agents to accelerate enforcement. The 2010 Law “On Enforcement Proceedings and Status of Enforcement Officers” changed the status of the officers responsible for enforcement of judicial decisions in Kazakhstan. These officials, earlier subordinated to the courts, were moved into the MOJ in 2010. However, the enforcement unit remains under-staffed, under-resourced and under-trained. World Bank staff estimates of the possible value of unenforced judgments come to about US$10 billion which - if correct and if resolved - could release significant amounts of locked-up capital for productive economic purposes. Against this enormous challenge, budget allocations for the enforcement function have been inadequate (out of a 2013 budget allocation of 5.5 billion KZT – USD37 m. – the capital allocation is about 27%: a respectable ratio under normal circumstances but inadequate in view of the scope of the ‘catching-up’ to be done). As a result, despite changes in legislation, the quality, speed and effectiveness of Kazakhstan’s enforcement function remains a major challenge in the country’s quest to build a modern justice system.

(c) Registration services: In view of Kazakhstan’s transition background and its still-evolving legal and institutional framework for registration and cadaster, the MOJ seeks to strengthen the capability of its organizational unit (a Committee) responsible for this function. The MOJ Committee is currently tasked with a variety of registration-related functions (of which that for real property, recently transferred to the MOJ, is one) and is yet to undertake an assessment of its registration-related services and functions, with implications for its structure, functions, staffing and performance indicators. In addition, the quality of the data and information in the real estate registration databases is of uncertain provenance, posing a real risk to actions taken on real property registration on the basis of data of such uncertain quality and provenance. Such risks also affect the market for real property in Kazakhstan, thereby depressing property values and impacting the business climate more generally. The Committee also desires, as part of its capability-enhancing plan, to undertake the development and implementation of a "clean-up strategy" for its information database(s).

(d) Legal aid for vulnerable groups – the same Committee that is responsible for registration is also in charge of legal aid. Kazakhstan has made some changes to the legal framework for legal aid, defining eligibility criteria, setting out implementation modalities, and specifying the rates that providers of legal aid are authorized to charge for their services, for example. However, these changes are likely to be problematic and are unlikely to make a significant difference to the three key challenges faced by the state in providing access to free legal aid to its vulnerable and eligible groups: (i) the system is excessively bureaucratic and the cost of administering the program appears to be relatively high compared to the actual amounts spent on paying for the services provided; (ii) because the system is dependent on ‘official providers’ such as state bodies and the official bar association, remote areas and vulnerable groups remain seriously under-served, and (iii) there is no effective monitoring and evaluation system to track program impact and suggest corrective actions. However, there are additional challenges: Kazakhstan’s budget allocation and actual expenditure on state-provided free legal aid for the poor and vulnerable is not known with certainty; nor is it clear how much of such expenditures go towards program administration, and how much is spent on actual provision of free legal aid. It would be desirable to (a) benchmark, against international good practice, the legal and institutional framework for provision of legal aid in Kazakhstan; (b) assess to
what extent current legal aid program(s) can be improved; (c) design and implement an M&E framework to better track results and impact of legal aid programs, especially for women and vulnerable/remote populations; and (d) develop a roadmap to improve program efficiency and effectiveness.

In addition, three other areas have been flagged by the MOJ leadership as needing special capacity-building attention: (i) forensics, where the MOJ is a key contributor to the criminal justice system; (ii) information systems – a cross-cutting function which – if improved – can enhance capability and impact of all MOJ units and functions; (iii) M&E and user feedback, to be used for assessing policy effectiveness and impact, and for identifying remedial actions.

The Institute of Justice (IJ) is the training entity for judges and judicial staff. Lacking functional and operational autonomy and not even part of the judicial branch (it falls under the National Academy for Public Administration), it does not have its own premises, lacks adequate budget resources (principally because of lack of capacity to develop a medium-term budget or adequate justification for its resource needs), makes do with a few faculty members and relies mostly on judges being invited as guest lecturers, and has very few computer systems or equipment.

The Ministry of Regional Development (MRD) has recently been tasked with leading a multi-agency effort to modernize Kazakhstan’s legal framework for licensing, registration, certification and other activities that are envisaged to contribute to ‘self-regulation’ in and by the private sector. The authorities are keen to equip the MRD to be institutionally capable of discharging this function and – once the legal framework is established through new laws and regulations – of monitoring implementation of these laws. In Kazakhstan’s context, “self-regulation” is a set of rules developed and adopted by an organization representing an industry or a professional practice instead of state regulation, and enforced by that organization itself on behalf of the industry. Self-regulation could also be a wider concept incorporating forms of co-regulation (i.e. when the government endorses a self-regulatory regime, or self-regulation and government regulation function in parallel and complement each other). Self-regulation may also be defined as economic operators, social partners, non-governmental organizations and/or associations to adopt amongst themselves and for themselves common guidelines at a country level (e.g. codes of professional practice or standards).

The Ministry of Economy and Budget Planning (MEBP) is tasked with a role (though not the primary role) in developing the above legislative framework and in monitoring its implementation, and also in improving the business/commercial code. The MEBP thus a key entity for which Kazakhstan’s authorities have requested capacity-building support to enable it to adequately discharge its responsibility in unleashing the productive capacity of the private sector.

Overall, therefore, Kazakhstan continues to have a significant unfinished agenda on institutional reform and capability building in the justice sector. The proposed operation addresses the key institutional reform challenges constraining entity performance, service delivery and impact.

Relationship to CAS

The World Bank Group Country Partnership Strategy emphasizes support for initiatives to strengthen institutions. This includes support for human development and improving economic competitiveness. An effectively functioning justice system, with the appropriate skills mix, is key to an investor-friendly business climate and for access to justice by the vulnerable and marginalized.
The proposed project is consistent with the country authorities' strategy to strengthen justice institutions and capabilities, and the Bank Group's strategy to support such initiatives.

II. Proposed Development Objective(s)

Proposed Development Objective(s) (From PCN)

The proposed project development objective (PDO) is to (a) modernize the legal and institutional arrangements that govern the relationship, and settle disputes, between the state and its businesses and citizens; and (b) improve efficiency, transparency and access for judicial decisions and their enforcement, property registration and legal aid, in Kazakhstan.

Key Results (From PCN)

1. Improved enforcement of judicial decisions: (a) enforcement case disposal ratio increased from [xx]% in 2012 (baseline) to [xx]% (end-project); (b) annual value of enforced cases increased from $[xx] million in 2012 (baseline) to $[xx] million (end-project); and (c) number of days to enforce contracts reduced from [390] in 2012 to [xx] by end-project;
2. Enhanced operational effectiveness of the judiciary: (i) case backlogs reduced from [xx] in 2012 (baseline) to [xx] by end-project; (ii) case processing time for [civil, corporate and tax] cases reduced from an average of [xx] days in 2012 (baseline) to [xx] days by end-project;
3. Improved public trust: (a) user satisfaction with selected entities increases by [xx] percentage points over baseline survey; (b) LiTS score of user satisfaction with service delivery of civil courts increases from 27% (baseline) to [xx]% by end-project.

(Note: baseline values and end-project targets are proposed to be agreed by appraisal.)

III. Preliminary Description

Concept Description

As outlined in previous sections, the key entities relevant for the justice sector – and hence for the proposed JSISP - are the Supreme Court (SC - which oversees the judiciary); the MOJ; the MEBP; the MRD and the IJ. The task team is coordinating with Kazakhstan’s other development partners involved in the justice sector, to enable the JSISP to complement their programs and avoid duplication and overlaps.

The proposed project is envisaged as a technical assistance project, to provide capacity-building and M&E support to the selected entities over a 5-year period. The focus of the proposed assistance is to enhance their performance. Hence whenever possible the proposed activities aim to support the agencies’ own strategic/modernization plans and programs. However, across the entities there are common threads to the proposed support, e.g. an emphasis on capacity-building to (a) obtain periodic public feedback on agency performance and service delivery; (b) conduct institutional self-assessments; (c) develop strategic plans and programs based on (a) and (b); and (d) develop and/or strengthen agency performance indicators and a management dashboard, and build/strengthen agency M&E capacity. In addition, there are agency-specific capacity building priorities that this focused project will attempt to address.

Kazakhstan’s authorities envisage the proposed JSISP as a strategic instrument to strengthen the institutional capacity and performance of the selected justice sector entities, and deliver measurable results.
IV. Safeguard Policies that might apply

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V. Financing (in USD Million)

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VI. Contact point

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