

UNITED NATIONS DEVELOPMENT PROGRAMME

PROJECT DOCUMENT Republic of Kazakhstan



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Project Title: Improving processes of coordination and consultation, interaction between state bodies in the field of law making

Responsible Partner: United Nations Development Programme

Start Date: 1 October 2018 **End Date:** 31 December 2019

PAC Meeting date:

Brief Description

The Republic of Kazakhstan, through its Ministry of Justice, with financial support from the International Bank for Reconstruction and Development (IBRD) is implementing the Justice Sector Institutional Strengthening Project (JSISP). The overall aim of the Project is to support institution-building activities for a wide range of justice related services provided by various state bodies and organisations. The project's overall development objectives are to: [i] Strengthen the institutional capacity of selected agencies and organisations for the effective implementation of laws; and [ii] Improve the efficiency, transparency of, and access to selected public services in the justice sector.

This assignment relates to the project component on strengthening the key elements of the legal and institutional judicial framework in the Republic of Kazakhstan and its main task is twofold: [i] Improve coordination and consultation processes and interaction among state organisations and other bodies with the aim to enhance the quality of law making through the adoption of good practices from around the world; and [ii] Improve the capacity of the High Judicial Council in fulfilling its mandate successfully by: [a] providing a comprehensive analysis of how similar institutions in other countries function; [b] identifying good practices suitable for the High Judicial Council in Kazakhstan with respect to its current and future key functions; and [c] providing recommendations for streamlining its key activities, for rationalising its composition and operation and for modernising its human resource management practices.

Programme Period: 2016-2020

Contributing CPD Outcome:

Outcome 2.2: Judicial and legal systems, and public institutions, are fair, accountable and accessible to all people.

Indicative Output(s) of CPD:

Output 4: Capacity of human rights and rule of law institutions strengthened, including improved access to justice and redress.

Gender marker - GEN2

Total resources required:	USD 663,547	
Total resources allocated:	Donor: Ministry of Justice through the World Bank	USD 663,547

Approved by (signature):

UNDP

Vitalie Vremis, Deputy Resident Representative

I. DEVELOPMENT CHALLENGE

The country' development strategy – “Kazakhstan’s Way to 2050: Common Goals, Common Interests, Common Future” – lays out the goal of the country becoming one of the 30 most developed countries in the world by 2050. This strategy is based on economic diversification, innovation, investment in human capital and international trade integration. In support of this goal, the strategy also seeks to strengthen governance, enhance the quality of public services and improve the business climate in the country.

Notwithstanding the progress made to date in many fronts, significant institutional and governance challenges remain, constraining the state’s ability to effectively formulate and implement its development policies. A key challenge, relevant to this project, is to further develop the judicial sector in the country. This requires the strengthening of the institutional capacity of selected agencies and organisations for the effective implementation of the judicial function and the improvement in the efficiency and transparency of their processes, procedures and interactions with other state agencies and organisations. It also entails the modernisation of organisations, entities and structures that are related to the judicial functions to bring them up to the standards of OECD member states. In sum, Kazakhstan’s aspiration to enter the ranks of the 30 most competitive economies in the world is not possible without an independent and effectively functioning judiciary, free from corruption. It is also impossible to advance such tasks without the presence of highly skilled personnel capable of working in accordance with the envisioned new requirements which will be eventually prescribed upon completion of this project. Thus, human resource management processes and procedures in the selection, recruitment, appointment and promotion of judges and other judiciary personnel will also be part of this exercise.

II. IMPLEMENTATION STRATEGY

The project implementation strategy is in line with the goals of the UNDP country programme for 2016-2020. These address two main challenges: (a) the country’s ability to maintain development gains in the face of the economic slowdown; and (b) sustaining and scaling up the country’s position as an international facilitator and promoter of regional and global dialogue.

The project implementation strategy is also congruent with the goals of the Republic of Kazakhstan, which is currently implementing - through its Ministry of Justice and with financial support from the International Bank for Reconstruction and Development (IBRD) - the Justice Sector Institutional Strengthening Project (JSISP). The overall aim of this Project is to support institution-building activities for a wide range of justice related services provided by various state bodies and organisations. The project beneficiaries include the Ministry of Justice (MOJ) – also the national implementing partner of this project – the Supreme Court (SC), the Academy of Justice (AJ), the General Prosecutor Office (GPO), the High Judicial Council (HJC) and the Ministry of Internal Affairs (MIA).

The project follows a rights-based approach, promoting the rule of law and ensuring better access to justice, by addressing some critical challenges in the development of a highly qualified judiciary in Kazakhstan. It will support the on-going effort for the modernisation of the High Judicial Council of the Republic of Kazakhstan. It will also contribute to improving the interaction among various state entities and organisations implicated one way or another with the law making process.

Specifically, this assignment relates to the JSISP component on strengthening the key elements of the legal and institutional judicial framework in the Republic of Kazakhstan and its main

tasks are twofold: [i] to improve coordination and consultation processes and interaction among state organisations and other bodies with the aim to enhance the quality of law making through the adoption of good practices from around the world; and [ii] to improve the capacity of the High Judicial Council in fulfilling its mandate successfully by: [a] providing a comprehensive analysis of how similar institutions in other countries function; [b] identifying good practices suitable for the High Judicial Council in Kazakhstan with respect to performing its current and future key functions; and [c] providing recommendations for streamlining its key activities, for rationalising its composition and operation and for modernising its human resource management practices.¹

The first task is to explore how it would be possible to include judges into the law making process² – considering their acquired knowledge and practical experience in the administration of justice, as their input may have a positive impact on the quality of the legal text under development. Hence, it seems reasonable to study and analyse international practices regarding the role of judges in the law making process, should this process become mandatory in the future.³

The second task is to conduct a comparative analysis of how judicial councils or equivalent organisations or entities function and operate in other countries. This comparative analysis will include the study and analyse the functional jurisdiction of judicial councils and their structure and composition. It will also examine the human resource management functions of judicial councils in selection, appointment, promotion, training and career advancement of judges (both candidate and sitting judges). It will then provide recommendations to the High Judicial Council of the Republic of Kazakhstan – and by extension to the Ministry of Justice –

¹ The overarching purpose of the High Judicial Council – stipulated by the Constitution of the Republic of Kazakhstan - is to ensure that the constitutional powers of the President of the Republic are upheld in forming courts and guaranteeing the independence and immunity of judges. The High Judicial Council was initially a consultative and advisory body under the President. Its jurisdiction included consideration of candidates envisioned to be appointed (and/or dismissed) as court chairmen, as chairmen of judicial boards, as judges of regional and equivalent courts and as judges of the Supreme Court. In December 2008, the High Judicial Council was transformed into an institution, without, however, the foundation of a legal entity. At the same time, its powers were enhanced by being assigned additional responsibilities pertaining to personnel-related issues regarding court chairmen and judges of district and equivalent courts, as well as conducting qualification examinations for candidate judges. In January 2018, the High Judicial Council became an autonomous state institution performing the following functions: [i] Provision of recommendations to the Head of State for the appointment and dismissal of judges of local and other courts, of Supreme Court judicial boards chairmen, of the chairman of the Supreme Court and of election of judges; [ii] Conduct competitive selection processes for filling the positions of chairmen and judges of district courts, judges of regional courts, as well as of the Supreme Court; [iii] Conduct qualification examinations for candidate judges; [iv] Manage personnel-related and organisational issues of the judicial system, including: [a] creation of a personnel reserve for executive judicial positions; [b] approval of performance assessment of judges following completion of one year of service; [c] provision of consent to changes in the number of serving judges; and [d] provision of recommendations for the establishment, reorganisation, reclassification and/or abolition of courts; [v] Provision of recommendations to the Head of State on improving the judicial system and relevant legislation; [vi] Guarantee the independence and immunity of judges through: [a] submission to the Head of State of statements of consent to prosecution of judges; and [b] consideration of judges' complaints against decisions of the Court Jury.

² Law making processes are regulated by the Law "On Legal Acts" and other relevant subordinate legal acts of the Republic of Kazakhstan. In this context, it is mandatory – for an organisation developing and drafting a regulatory act – to establish a working group consisting of: [i] personnel of its legal department; [ii] personnel of the Institute for Legislation; [iii] representatives of research institutes familiar with the subject matter of the draft legal act; [iv] non-governmental organisations; [v] public associations; [vi] members of Parliament; and [vii] scientists in relevant fields of expertise.

³ Currently, the involvement of judges in the law making process is not mandatory in Kazakhstan. However, according to Article 56 of the Law "On the Judicial System and Status of Judges of the Republic of Kazakhstan", a judge may be appointed – with the consent of the Chairman of the Supreme Court – to provide expert opinions to laws being drafted. In this case, a judge does not have to be selected from the personnel reserve or participate in a competitive selection process.

in streamlining its key activities, rationalising its composition and modernising its human resource management practices. It will finally propose the necessary legal amendments that need to be enacted for such recommendations to be gradually implemented.

The results of the comparative analysis and of other activities of this project will lay the foundation for improving the performance of the High Judicial Council of the Republic of Kazakhstan, as well as for improving the law making process in the country.

III. RESULTS AND PARTNERSHIPS

Expected Results & Deliverables

The expected results of this project are envisioned to be the following:

- A comprehensive report containing the analysis and recommendations on: [i] identification of common patterns, principles and peculiarities of the formation and activities of the High Judicial Council in the Republic of Kazakhstan and similar organisations in other countries; [ii] legal acts and documents that regulate the organisation and operation of internal processes of judicial councils, or similar organisations, in other countries; [iii] practical aspects of organising the work of judicial councils, or similar organisations, in other countries and their interaction with the judiciary and other state organisations; [iv] procedures for the formation of the judiciary to strengthen the institutional basis of judicial independence; [v] the role, legal nature and criteria of court management models internationally; [vi] regulations pertaining to judges' participation and roles in the law-making process; [vii] existing international practices, rules and procedures for assignment of judges for participating in the law-making process; [viii] procedures and mechanisms for competitive selection of judges; [ix] methods and methodologies utilised for the selection of candidates to filling in judicial vacancies; [x] procedures for conducting qualification examinations for judgeships; [xi] judges' career advancement mechanisms and models; [xii] methods ensuring transparency and openness at all stages of the competitive selection process of judges; [xiii] use of IT solutions and digital technologies in the selection and training of candidate judges and sitting judges; [xiv] methods and techniques for candidate judges' internships and their subsequent performance evaluation; [xv] recommendations to strengthen the High Judicial Council; and [xvi] recommendations on international cooperation practices that would assist the High Judicial Council with respect to training, selection and career advancement of judges;
- An analytical report containing: [i] the main findings and conclusions of the perceptions survey - conducted among judges and other judicial personnel; [ii] summary statistics on the data collected; and [iii] other supporting material;
- A condensed report containing: [i] the main conclusions and recommendations derived from the international roundtable; [ii] the list of participants (full name, name of organisation, subject of their intervention, contact information); [iii] photographs from the event; [iv] press releases and other communication-related material; and [v] two articles on the subject matter to be handed to the media;
- A report of the technical visits results (one for each technical visit) containing: [i] description of the purpose; [ii] objectives; [iii] results achieved; [iv] relevant presentations; [v] completed questionnaires by participants on the results of the technical visits, together with a summary analysis of their responses; [vi] list of participants indicating their full names, names of organisations and contact details; [vii] press releases and other communication-related materials; and [viii] handouts provided to participants of the technical visits;

- A report of the training events (one for each training event) containing: [i] description of purpose; [ii] objectives; [iii] results achieved; [iv] relevant presentations; [v] programmes and materials for the trainings; [vi] completed questionnaires by participants on the results of the training, together with a summary analysis of their responses; [vii] list of training participants indicating their full names, names of organisations and contact information; [viii] photographs from the training events; [ix] press releases and other materials; and [x] handouts provided to participants of the training events.

It is expected that these reports will assist the High Judicial Council and the Ministry of Justice to plan the way forward with respect to the role of the Council in the law making process, as well as on how the Council should be composed and structured and how it should perform its assigned functions. Such deliberations will lead to realising another expected result of this project:

- The preparation of draft proposals on amendments and additions to the current legislation of the Republic of Kazakhstan aiming at improving the activities of the High Judicial Council, including recommendations on the role of judges in the law-making process and on the judges' selection, appointment, promotion, career advancement and training systems.

Resources Required to Achieve the Expected Results

The UNDP CO will mobilize its own human resources (programme and project staff) and form a team of qualified consultants (individuals and organisations), drawing from a national and international pool of suitable and qualified experts. In addition, the UNDP will make its physical and ICT infrastructure available to the team of experts.

Partnerships

The UNDP will capitalise fully on its existing partnerships with key national partners. It will also deploy its wide network of partners and experts from academia, expert community and international organizations. While implementing this project, UNDP will work closely with the World Bank, the Ministry of Justice and its consultants – PWC; as well as with the High Judicial Council and any other organisations that are relevant to the subject matter of this project.

Risks and Assumptions

There are no specific risks expected during the project implementation, except that this project needs to be implemented in a rather tight period.

Stakeholder Engagement

Target Groups: Ministry of Justice, High Judicial Council, judges and court staff.

Other Potentially Affected Groups: people of Kazakhstan including socially vulnerable groups that could potentially benefit from better trained law enforcement professionals.

Sustainability

Implementation will help to establish a state of the art human resource management system based on best international practices. It will also assist in strengthening the capacity of the High Judicial Council to manage human resources processes in the selection, appointment, training and career advancement of judges, as well as its structure and composition. National ownership of results will be ensured by the continuous and direct involvement of the Beneficiary in the process of deriving such results. Once, the desirable results are compiled, the Beneficiary will proceed with the necessary actions needed to implement the recommendations, as it sees fit. Implementation of the project results will enhance the law making process in the Republic of Kazakhstan, overall.

IV. PROJECT MANAGEMENT

Cost Efficiency and Effectiveness

The UNDP will use a portfolio management approach to improve cost effectiveness by leveraging activities of this project financed by the World Bank.

Cost effectiveness and efficiency during the project implementation will be ensured by compliance with the UNDP standard rules, regulations, policies and procedures.

The UNDP project team will develop a detailed project implementation plan with application of monitoring tools at each phase of the project. This will help trace the output indicators and measure the level of achievement of project goals versus identified project targets.

Project Management

The UNDP CO will involve a professional project management team comprised of national and international experts that possesses the required expertise, managerial and analytical skills. High quality of reporting will be ensured by hiring a dedicated Chief Technical Advisor who will be responsible for the quality assurance of the project's deliverables.

The Project will be operationalized in Astana, on the premises of the UNDP CO. Other UNDP projects will provide support to the team of experts by sharing knowledge and expertise, helping build relationships with national partners and other stakeholders.

The UNDP programme staff will closely supervise all stages of the Project's implementation. The team of experts will be supported by the UNDP CO Operation Services during all phases of the project.

V. RESULTS FRAMEWORK

EXPECTED OUTPUTS	OUTPUT INDICATORS	DATA SOURCE	BASELINE		TARGETS	DATA COLLECTION METHODS
			VALUE	YEAR		
Output 1 Comparative analysis of judicial councils' functions and operational modalities and law making processes in a selective number of countries	1.1 Recommendations on how to include judges in the law making process are adopted 1.2 Recommendations are adopted to improve the functioning of the High Judicial Council	Relevant systems in a selective number of countries.	HJC operates according to some commonly accepted standards; law making process does not provide for mandatory involvement of judges	2018	Good practices are identified, and recommendations are developed for the consideration of the High Judicial Council Gender-responsive planning at both national and local levels will be promoted.	Desk research of relevant legislation and other documents in a selective number of countries
Output 2 Perception survey conducted and findings analysed	2.1 Survey results collected and tabulated into a matrix format. Data to a large extent is systematized and gender disaggregated. 2.2 Survey results are substantively interpreted and trends are identified	Focus groups, including sitting, former and candidate judges perceptions on several issues. Design parameters will be strengthened, by improving disaggregated data collection by region and gender.	No such data exists nowadays	2018	Perceptions of surveyed individuals are used to shape future judiciary policies and practices. Gender-responsive planning at both national and local levels, and improvement of targeted service delivery will be promoted.	Survey participants' opinions and perceptions gathered systematically and recorded
Output 3 International Round Table organised to discuss the findings of the comparative analysis	3.1 Most appropriate opinions and comments provided by expert participants are assessed and considered in planning the new HJC	Expert participants' opinions, comments and recommendations	HJC functions and operated within a standard framework, considered outdated	2018	Gather information that would assist in deciding on practices that fit best the HJC in the Republic of Kazakhstan	Codified records of expert participants' presentations, comments, observations and recommendations

EXPECTED OUTPUTS	OUTPUT INDICATORS	DATA SOURCE	BASELINE		TARGETS	DATA COLLECTION METHODS
			VALUE	YEAR		
Output 4 Three technical visits completed	4.1 Set of recommendations that could be implemented to improve functioning and operations of the HJC 4.2 Set of recommendations on how to improve the law-making process in Kazakhstan	On-location discussions and consultations with counterparts in similar organisations in countries visited	Some information exists	2018	Acquire hands-on information on how judicial councils' function in other countries and how the law making process is organised	Systematic collection of data and information on how judicial councils' functions in the countries visited and how law making is organised.
Output 5 Capacity building of HJC personnel on contemporary practices in human resource management	5.1 Comprehensive training programmes materials is made available to HJC personnel 5.2 Trainees have completed training programmes successfully	Training experts will provide appropriate information on methods and techniques in contemporary human resource management	No such knowledge exists	2018	Train a sufficient number of HJC personnel on utilising contemporary human resource management practices in the selection, appointment, promotion and career advancement of judges	N/A

EXPECTED OUTPUTS	OUTPUT INDICATORS	DATA SOURCE	BASELINE		TARGETS	DATA COLLECTION METHODS
			VALUE	YEAR		
<p>Output 6 Legal amendments and additions to existing legislation</p>	<p>6.1 A draft law prepared, which contains the necessary amendments for introducing changes decided by the Government in the functioning and operational modalities of the HJC; as well as on institutionalising the law making process</p>	<p>Existing legislation on the judicial sector as a whole</p>	<p>Current legislation</p>	<p>2018</p>	<p>Develop recommendations to be incorporated in the legal framework in order to improve the functioning and operation of the HJC</p>	<p>Desk research of existing legislation and other legal documents in the Republic of Kazakhstan</p>

VI. MONITORING AND EVALUATION

In accordance with the UNDP's programming policies and procedures, the project will be monitored through the following monitoring and evaluation plans:

Monitoring Plan

Monitoring Activity	Purpose	Frequency	Expected Action	Partners (if joint)	Cost (if any)
Track results progress	Progress data against the results indicators in the RRF will be collected and analysed to assess the progress of the project in achieving the agreed outputs. Identify specific risks that may threaten achievement of the intended results. Identify and monitor risk management actions using a risk log. This includes monitoring measures and plans that may have been required as per UNDP's Social and Environmental Standards. Audits will be conducted in accordance with the UNDP's audit policy to manage financial risk.	Monthly	Slower than expected progress will be addressed by project management.	HJC MoJ	TBC
Monitor and Manage Risk		Monthly	Risks are identified by project management and actions are taken to manage risk. The risk log is actively maintained to keep track of identified risks and actions taken.	HJC MoJ	TBC
Learn	Knowledge, good practices and lessons will be captured regularly, as well as actively sourced from other projects and partners and integrated back into the project.	Annually	Relevant lessons are captured by the project team and used to inform management decisions.	N/A	TBC
Annual Project Quality Assurance	The quality of the project will be assessed against the UNDP's quality standards to identify project strengths and weaknesses and to inform management decision making to improve the project.	Annually	Areas of strength and weakness will be reviewed by project management and used to inform decisions to improve project performance.	HJC MoJ	TBC
Review and Make Course Corrections	Internal review of data and evidence from all monitoring actions to inform decision making.	At least twice during project implementation	Progress against targets set, risks, lessons and quality will be discussed by the management team and used to make course corrections.	HJC MoJ	TBC

Project Report	A progress report will be presented to the management team and other key stakeholders, consisting of progress data and results achieved against pre-defined targets at the output level, and any evaluation or review reports prepared over the period.	Annually	Decision on the Approval of the report or required revision.	HJC MoJ	TBC
Final Project Review Board	Management team and the Beneficiaries will hold an end-of project review to assess the outcomes of the project and discuss opportunities to socialise project results with relevant audiences.	In the final year of the project cycle	Resolution on the closure of the Project.	HJC MoJ	TBC

VII. WORK PLAN

EXPECTED OUTPUTS	PLANNED ACTIVITIES	RESPONSIBLE PARTY	PLANNED BUDGET (September - December 2018)		
			Funding Source	Budget Description	Amount
Output 1 Comparative analysis	Conduct comparative analysis in Kazakhstan and other selected countries using gender-sensitive approach	UNDP	MoJ	International Individual Consultants 71200	66 235
				Translation services 74220	1 500
				GMS (8%) 75100	5 420
				Sub-total	73 155
				Contracts with local companies 72100	57 100
Output 2 Perception survey	Conduct perception survey among judges and courts personnel by deployment of disaggregated data collection by region and gender.	UNDP	MoJ	Translation services 74220	2 500
				GMS (8%) 75100	4 770
				Sub-total	64 370
				Contracts with local companies 72100	14 400
				Translation services 74220	5 000
Output 3 International roundtable	Organisation of an international roundtable in Astana (100 participants)	UNDP	MoJ	Transportation services 71600	10 155
				GMS (8%) 75100	2 365
				Sub-total	31 920
				Transportation services 71600	245 778
				Translation services 74220	34 000
Output 4 Technical Visits	Conduct three technical visits (UK & USA; Korea & Singapore; Italy & Spain)	UNDP	MoJ	GMS (8%) 75100	22 382
				Sub-total	302 160
				International Individual Consultants 71200	13 770
				Contracts with local companies 72100	38 940
				Translation services 74220	12 000
Output 5 Trainings	Conduct two training events (3-days each)	UNDP	MoJ	GMS (8%) 75100	5 177
				Sub-total	69 887
				Local Individual Consultants 71300	21 000
				Translation services 74220	1 000
				GSM (8%) 75100	1 760
Output 6 Legal amendments prepared	Legal amendments preparation	UNDP	MoJ	Sub-total	23 760
				International Individual Consultants 71200	55 868
				Project Manager	11 200
				Project Assistant	5 000

				Rent and office maintenance 73100	4 000
				DPC - programme	7 400
				DPC - operations	4 800
				Transportation services 71600	2 750
				GMS (8%) 75100	7 277
				Sub-total	98 296
TOTAL					663 547

VIII. GOVERNANCE AND MANAGEMENT ARRANGEMENTS

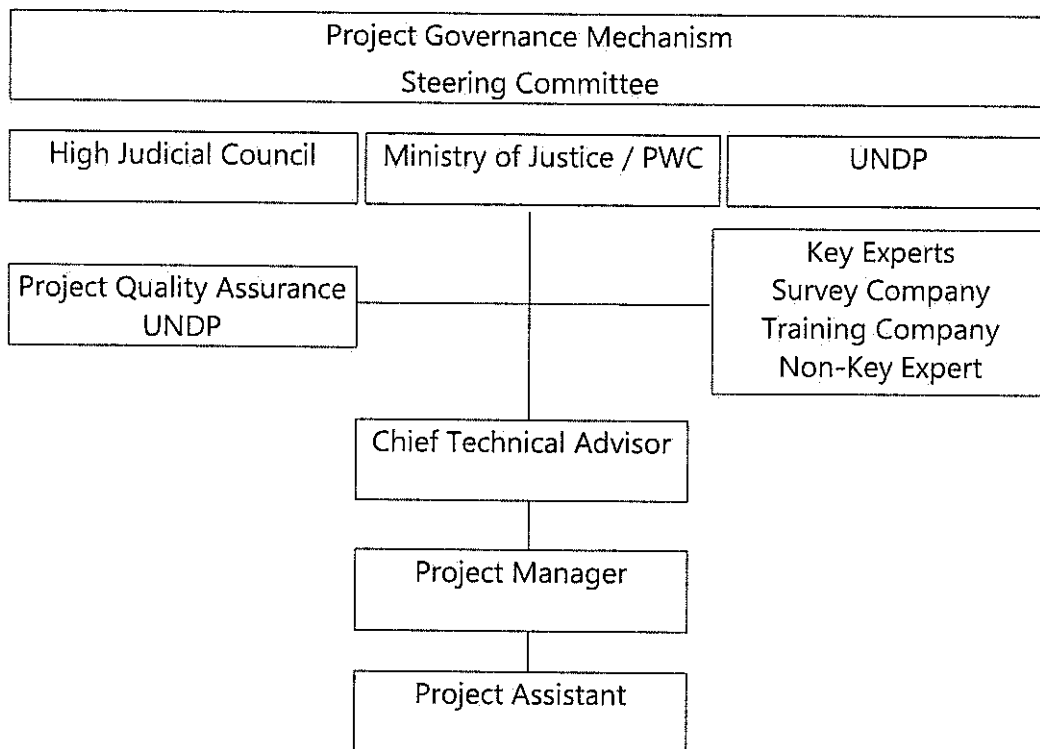
The governing body of the Project will be the Steering Committee consisting of the Beneficiary, the Implementing Agency and the UNDP Governance Unit with authority to make decisions regarding the project. It will be comprised of high level representatives of these three entities. They will meet regularly to consider progress of activities and to approve the deliverables of the project.

A Chief Technical Advisor will ensure the satisfactory execution of project goals and objectives. He will also be responsible for the consolidation of all reports and other outcome documents and to provide quality assurance in accordance with the requirements of the client.

The Project Manager and Project Assistant will be responsible partly for project management and all operational procedures required to implement the project in a timely and orderly manner, including national and international personnel, other hired experts and contracted companies.

The key experts, survey and training entities will provide their services according to terms of reference prepared, under the overall supervision of the Head of the Governance Unit, the Chief Technical Advisor and the Project Manager, always in consultation with the Beneficiary.

Project Organisation



IX. LEGAL CONTEXT AND RISK MANAGEMENT

LEGAL CONTEXT STANDARD CLAUSES

This project document shall be the instrument referred to as such in Article 1 of the Standard Basic Assistance Agreement between the Government of the Republic of Kazakhstan and the United Nations Development Programme, signed by the parties on October 4, 1994. All references in the SBAA to "Executing Agency" shall be deemed to refer to the "Implementing Partner."

RISK MANAGEMENT STANDARD CLAUSES

National Implementation

1. Consistent with the Article III of the SBAA *[or the Supplemental Provisions]*, the responsibility for the safety and security of the Implementing Partner and its personnel and property, and of UNDP's property in the Implementing Partner's custody, rests with the Implementing Partner. To this end, the Implementing Partner shall:
 - a) put in place an appropriate security plan and maintain the security plan, taking into account the security situation in the country where the project is being carried out;
 - b) assume all risks and liabilities related to the Implementing Partner's security, and the full implementation of the security plan.
2. UNDP reserves the right to verify whether such a plan is in place, and to suggest modifications to the plan, when necessary. Failure to maintain and implement an appropriate security plan as required hereunder shall be deemed a breach of the Implementing Partner's obligations under this Project Document.
3. The Implementing Partner agrees to undertake all reasonable efforts to ensure that no UNDP funds received pursuant to the Project Document are used to provide support to individuals or entities associated with terrorism and that the recipients of any amounts provided by UNDP hereunder do not appear on the list maintained by the Security Council Committee established (Resolution 1267/1999) - http://www.un.org/sc/committees/1267/aq_sanctions_list.shtml. This provision must be included in all sub-contracts or sub-agreements entered into under/further to this Project Document.
4. Consistent with the UNDP's Programme and Operations Policies and Procedures, social and environmental sustainability will be enhanced through application of the UNDP Social and Environmental Standards (<http://www.undp.org/ses>) and the related Accountability Mechanism (<http://www.undp.org/secu-srm>).
5. The Implementing Partner shall: (a) conduct project and programme-related activities in a manner consistent with the UNDP Social and Environmental Standards, (b) implement any management or mitigation plan prepared for the project or programme to comply with such standards, and (c) engage in a constructive and timely manner to address any concerns and complaints raised through the Accountability Mechanism. UNDP will seek to ensure that communities and other project stakeholders are informed of and have access to the Accountability Mechanism.
6. All signatories to the Project Document shall cooperate in good faith with any exercise to evaluate any programme or project-related commitments or compliance with the UNDP Social and Environmental Standards. This includes providing access to project sites, relevant personnel, information, and documentation.

X. ANNEXES

Annex 1. Risk Log

Project Title: High Judicial Council Institutional Strengthening Project							Award ID	Date:	
#	Type	Description	Date Identified	Probability ⁴ & Impact ⁵	Countermeasures / Management response	Owner	Submitted / updated by	Last Update	Status
1	Environmental	No environmental risks identified	-	-	-	-	-	-	-
2	Financial	No financial risks identified	-	-	-	-	-	-	-
3	Operational / Organizational	Project activities need to be completed in a short period of time	Aug 2018	Beneficiary's requirement to complete all activities in a rather short period of time may hinder the quality of expected results P = 3 / I = 4	UNDP will closely monitor output production to ensure high quality of results	UNDP GU Head	UNDP GU Head / CTA	-	-
		Selection of most appropriate project management personnel	Aug 2018	Off target selection and recruitment of the most experienced and suitable project management personnel may hinder execution capacity P = 1 / I = 4	UNDP will ensure that it is very selective in recruiting experienced project management personnel	UNDP GU Head	UNDP GU Head	-	-
		Selection of most experienced consultancy firms and individuals to carry out project activities	Aug 2018	Off target selection and engagement of most suitable consultancy firms and individuals may influence the quality of the outputs and results	UNDP will use precise and detailed evaluation criteria in selecting the most experienced	UNDP GU Head	UNDP GU Head	-	-

4 Probability scale: 1 (low) to 5 (high).

5 Impact scale: 1 (low) to 5 (high).

4	Political	Frequent turnover of key decision making personnel	Aug 2018	P = 2 / I = 4 Change in key beneficiary personnel may hinder timely progress of activities P = 1 / I = 3	consultancy firm and individual consultants Engage mid-level beneficiary personnel to ensure continuation	UNDP GU Head / CTA	UNDP GU Head	-	-
5	Regulatory	Project results may not lead to legislative initiatives Other responsible ministries may not cooperate in a timely fashion	Aug 2018	Recommendations culminating from findings may not progress in the legislative process P = 2 / I = 2	Work closely with the Government to highlight benefits of legislating findings and recommendations	UNDP GU Head	UNDP GU Head / MoJ / HJC decision makers	-	-
6	Strategic	UNDP as partner of choice for future development issues	Aug 2018	Ministry of Finance may not provide necessary funds for financing performance of re-allocated funds If UNDP does not manage to produce the expected results may diminish its partner of choice status P = 1 / I = 5	Work closely with the Government to secure necessary funds when functions have been re-allocated Focus on producing the best possible results	UNDP GU Head	UNDP GU Head / MoJ decision makers	-	-
7	Security	No security risks identified	-	-	-	-	-	-	-

Annex 2. Social and Environmental Screening

Project Information	
1. Project Title	High Judicial Council Institutional Strengthening Project
2. Project Number	
3. Location (Global/Region/Country)	Kazakhstan

Part A. Integrating Overarching Principles to Strengthen Social and Environmental Sustainability

QUESTION 1: How Does the Project Integrate the Overarching Principles in order to Strengthen Social and Environmental Sustainability?
<i>Briefly describe in the space below how the Project mainstreams the human-rights based approach</i>
The Project is aimed at enhancing the capacity of the High Judicial Council, which is directly involved in ensuring human rights in Kazakhstan and in the judicial system specifically.
<i>Briefly describe in the space below how the Project is likely to improve gender equality and women's empowerment</i>
Due to greater inclusion of women/ adequate gender representation in the nomination process, composition of courts is to become gender balanced. The rights of women will be improved in the judicial process because of the increased capacity of judges.
<i>Briefly describe in the space below how the Project mainstreams environmental sustainability</i>
N/A

Part B. Identifying and Managing Social and Environmental Risks

QUESTION 2: What are the Potential Social and Environmental Risks?	QUESTION 3: What is the level of significance of the potential social and environmental risks?			QUESTION 6: What social and environmental assessment and management measures have been conducted and/or are required to address potential risks (for Risks with Moderate and High Significance)?
<i>Risk Description</i>	<i>Impact and Probability (1-5)</i>	<i>Significance (Low, Moderate, High)</i>	<i>Comments</i>	<i>Description of assessment and management measures as reflected in the Project design. If ESIA or SESA is required note that the assessment should consider all potential impacts and risks.</i>
Risks not identified				
QUESTION 4: What is the overall Project risk categorization?				
Select one (see SESP for guidance)				
<div style="display: flex; justify-content: space-between;"> Low Risk <input checked="" type="checkbox"/> </div>				
<div style="display: flex; justify-content: space-between;"> Moderate Risk <input type="checkbox"/> </div>				
<div style="display: flex; justify-content: space-between;"> High Risk <input type="checkbox"/> </div>				
QUESTION 5: Based on the identified risks and risk categorization, what requirements of the SES are relevant?				
Check all that apply				
<i>Principle 1: Human Rights</i>				Comments
<i>Principle 2: Gender Equality and Women's Empowerment</i>				Not applicable to this Project.
<i>1. Biodiversity Conservation and Natural Resource Management</i>				Not applicable to this Project.
<i>2. Climate Change Mitigation and Adaptation</i>				Not applicable to this Project.
<i>3. Community Health, Safety and Working Conditions</i>				Not applicable to this Project.
<i>4. Cultural Heritage</i>				Not applicable to this Project.
<i>5. Displacement and Resettlement</i>				Not applicable to this Project.
<i>6. Indigenous Peoples</i>				Not applicable to this Project.
<i>7. Pollution Prevention and Resource Efficiency</i>				Not applicable to this Project.

Final Sign Off

<i>Signature</i>	<i>Date</i>	<i>Description</i>
QA Assessor		UNDP staff member responsible for the Project, typically a UNDP Programme Officer. Final signature confirms they have "checked" to ensure that the SESP is adequately conducted.
QA Approver		UNDP senior manager, typically the UNDP Deputy Country Director (DCD), Country Director (CD), Deputy Resident Representative (DRR), or Resident Representative (RR). The QA Approver cannot also be the QA Assessor. Final signature confirms they have "cleared" the SESP prior to submittal to the PAC.
PAC Chair		UNDP chair of the PAC. In some cases, PAC Chair may also be the QA Approver. Final signature confirms that the SESP was considered as part of the project appraisal and considered in recommendations of the PAC.

SESP Attachment 1. Social and Environmental Risk Screening Checklist

Checklist Potential Social and Environmental Risks		
Principles 1: Human Rights		Answer (Yes/No)
1.	Could the Project lead to adverse impacts on enjoyment of the human rights (civil, political, economic, social or cultural) of the affected population and particularly of marginalized groups?	No
2.	Is there a likelihood that the Project would have inequitable or discriminatory adverse impacts on affected populations, particularly people living in poverty or marginalized or excluded individuals or groups? ⁶	No
3.	Could the Project potentially restrict availability, quality of and access to resources or basic services, to marginalized individuals or groups?	No
4.	Is there a likelihood that the Project would exclude any potentially affected stakeholders, marginalized groups, from fully participating in decisions that may affect them?	No
5.	Is there a risk that duty-bearers do not have the capacity to meet their obligations in the Project?	No
6.	Is there a risk that rights-holders do not have the capacity to claim their rights?	No
7.	Have local communities or individuals, given the opportunity, raised human rights concerns regarding the Project during the stakeholder engagement process?	No
8.	Is there a risk that the Project would exacerbate conflicts among and/or the risk of violence to project-affected communities and individuals?	No
Principle 2: Gender Equality and Women's Empowerment		
1.	Is there a likelihood that the proposed Project would have adverse impacts on gender equality and/or the situation of women and girls?	No
2.	Would the Project potentially reproduce discriminations against women based on gender, especially regarding participation in design and implementation or access to opportunities and benefits?	No
3.	Have women's groups/leaders raised gender equality concerns regarding the Project during the stakeholder engagement process and has this been included in the overall Project proposal and in the risk assessment?	No
4.	Would the Project potentially limit women's ability to use, develop and protect natural resources, considering different roles and positions of women and men in accessing environmental goods and services?	No
Principle 3: Environmental Sustainability: Screening questions regarding environmental risks are encompassed by the specific Standard-related questions below		
Standard 1: Biodiversity Conservation and Sustainable Natural Resource Management		
1.1	Would the Project potentially cause adverse impacts to habitats (e.g. modified, natural, and critical habitats) and/or ecosystems and ecosystem services?	No
1.2	Are any Project activities proposed within or adjacent to critical habitats and/or environmentally sensitive areas, including legally protected areas (e.g. nature reserve, national park), areas proposed for protection, or recognized as such by authoritative sources and/or indigenous peoples or local communities?	No

⁶ Prohibited grounds of discrimination include race, ethnicity, gender, age, language, disability, sexual orientation, no religion, political or other opinion, national or social or geographical origin, property, birth or other status including as non-indigenous person or as a member of a minority. References to "women and men" or similar is understood to include women and men, boys and girls, and other groups discriminated against based on their gender identities, such as transgender people and transsexuals.

1.3	Does the Project involve changes to the use of lands and resources that may have adverse impacts on habitats, ecosystems, and/or livelihoods? (Note: if restrictions and/or limitations of access to lands would apply, refer to Standard 5)	No
1.4	Would Project activities pose risks to endangered species?	No
1.5	Would the Project pose a risk of introducing invasive alien species?	No
1.6	Does the Project involve harvesting of natural forests, plantation development, or reforestation?	No
1.7	Does the Project involve the production and/or harvesting of fish populations or other aquatic species?	No
1.8	Does the Project involve significant extraction, diversion or containment of surface or ground water?	No
1.9	Does the Project involve utilization of genetic resources? (e.g. collection and/or harvesting, commercial development)	No
1.10	Would the Project generate potential adverse transboundary or global environmental concerns?	No
1.11	Would the Project result in secondary or consequential development activities which could lead to adverse social and environmental effects, or would it generate cumulative impacts with other known existing or planned activities in the area?	No
Standard 2: Climate Change Mitigation and Adaptation		
2.1	Will the proposed Project result in significant ⁷ greenhouse gas emissions or may exacerbate climate change?	No
2.2	Would the potential outcomes of the Project be sensitive or vulnerable to potential impacts of climate change?	No
2.3	Is the proposed Project likely to directly or indirectly increase social and environmental vulnerability to climate change now or in the future (also known as maladaptive practices)?	No
Standard 3: Community Health, Safety and Working Conditions		
3.1	Would elements of Project construction, operation, or decommissioning pose potential safety risks to local communities?	No
3.2	Would the Project pose potential risks to community health and safety due to the transport, storage, and use and/or disposal of hazardous or dangerous materials (e.g. explosives, fuel and other chemicals during construction and operation)?	No
3.3	Does the Project involve large-scale infrastructure development (e.g. dams, roads, buildings)?	No
3.4	Would failure of structural elements of the Project pose risks to communities? (e.g. collapse of buildings or infrastructure)	No
3.5	Would the proposed Project be susceptible to or lead to increased vulnerability to earthquakes, subsidence, landslides, erosion, flooding or extreme climatic conditions?	No
3.6	Would the Project result in potential increased health risks (e.g. from water-borne or other vector-borne diseases or communicable infections such as HIV/AIDS)?	No
3.7	Does the Project pose potential risks and vulnerabilities related to occupational health and safety due to physical, chemical, biological, and radiological hazards during Project construction, operation, or decommissioning?	No
3.8	Does the Project involve support for employment or livelihoods that may fail to comply with national and international labour standards (i.e. principles and standards of ILO fundamental conventions)?	No

⁷ Regarding CO₂, "significant emissions" corresponds generally to more than 25,000 tons per year (from both direct and indirect sources). [The Guidance Note on Climate Change Mitigation and Adaptation provides additional information on GHG emissions.]

3.9	Does the Project engage security personnel that may pose a potential risk to health and safety of communities and/or individuals (e.g. due to a lack of adequate training or accountability)?	No
Standard 4: Cultural Heritage		
4.1	Will the proposed Project result in interventions that would potentially adversely impact sites, structures, or objects with historical, cultural, artistic, traditional or religious values or intangible forms of culture (e.g. knowledge, innovations, practices)? (Note: Projects intended to protect, and conserve Cultural Heritage may also have inadvertent adverse impacts)	No
4.2	Does the Project propose utilizing tangible and/or intangible forms of cultural heritage for commercial or other purposes?	No
Standard 5: Displacement and Resettlement		
5.1	Would the Project potentially involve temporary or permanent and full or partial physical displacement?	No
5.2	Would the Project possibly result in economic displacement (e.g. loss of assets or access to resources due to land acquisition or access restrictions – even in the absence of physical relocation)?	No
5.3	Is there a risk that the Project would lead to forced evictions? ⁸	No
5.4	Would the proposed Project possibly affect land tenure arrangements and/or community based property rights/customary rights to land, territories and/or resources?	No
Standard 6: Indigenous Peoples		
6.1	Are indigenous peoples present in the Project area (including Project area of influence)?	No
6.2	Is it likely that the Project or portions of the Project will be located on lands and territories claimed by indigenous peoples?	No
6.3	Would the proposed Project potentially affect the human rights, lands, natural resources, territories, and traditional livelihoods of indigenous peoples (regardless of whether indigenous peoples possess the legal titles to such areas, whether the Project is located within or outside of the lands and territories inhabited by the affected peoples, or whether the indigenous peoples are recognized as indigenous peoples by the country in question)?	No
6.4	Has there been an absence of culturally appropriate consultations carried out with the objective of achieving FPIC on matters that may affect the rights and interests, lands, resources, territories and traditional livelihoods of the indigenous peoples concerned?	No
6.5	Does the proposed Project involve the utilization and/or commercial development of natural resources on lands and territories claimed by indigenous peoples?	No
6.6	Is there a potential for forced eviction or the whole or partial physical or economic displacement of indigenous peoples, including through access restrictions to lands, territories, and resources?	No
6.7	Would the Project adversely affect the development priorities of indigenous peoples as defined by them?	No
6.8	Would the Project potentially affect the physical and cultural survival of indigenous peoples?	No
6.9	Would the Project potentially affect the Cultural Heritage of indigenous peoples, including through the commercialization or use of their traditional knowledge and practices?	No
Standard 7: Pollution Prevention and Resource Efficiency		

⁸ Forced evictions include acts and/or omissions involving the coerced or involuntary displacement of individuals, groups, or communities from homes and/or lands and common property resources that were occupied or depended upon, thus eliminating the ability of an individual, group, or community to reside or work in a particular dwelling, residence, or location without the provision of, and access to, appropriate forms of legal or other protections.

7.1	Would the Project potentially result in the release of pollutants to the environment due to routine or non-routine circumstances with the potential for adverse local, regional, and/or transboundary impacts?	No
7.2	Would the proposed Project potentially result in the generation of waste (both hazardous and non-hazardous)?	No
7.3	Will the proposed Project potentially involve the manufacture, trade, release, and/or use of hazardous chemicals and/or materials? Does the Project propose use of chemicals or materials subject to international bans or phase-outs?	No
7.4	Will the proposed Project involve the application of pesticides that may have a negative effect on the environment or human health?	No
7.5	Does the Project include activities that require significant consumption of raw materials, energy, and/or water?	No

Annex 3. Letter of Agreement on Support Services

Reference is made to consultations between officials of the Ministry of Justice of the Republic of Kazakhstan (hereinafter referred to as "the MoJ") and officials of UNDP with respect to the provision of support services by the UNDP country office for nationally managed programmes and projects. UNDP and the MoJ hereby agree that the UNDP country office may provide such support services at the request of the MoJ through its institution designated in the relevant project document of the joint project of the UNDP and the MoJ.

The UNDP country office may provide support services for assistance with reporting requirements and direct payment. In providing such support services, the UNDP country office shall ensure that the capacity of the MoJ-designated institution is strengthened to enable it to carry out such activities directly. The costs incurred by the UNDP country office in providing such support services shall be recovered from the administrative budget of the office.

The UNDP country office may provide, at the request of the designated institution, the following support services for the activities of the project:

- (a) Identification and recruitment of project personnel; handling administrative issues related to the project personnel;
- (b) Identification and facilitation of training activities, seminars and workshops;
- (c) Procurement of goods and services;
- (d) Processing of direct payments.

The procurement of goods and services and the recruitment of project personnel by the UNDP country office shall be in accordance with the UNDP regulations, rules, policies and procedures. If the requirements for support services by the country office change during the life of a project, the annex to the project document is revised with the agreement of the UNDP resident representative and the designated institution.

The relevant provisions of the Standard Basic Assistance Agreement (SBAA) between the Government of the Republic of Kazakhstan and the United Nations Development Programme, signed by the parties on October 4, 1994, including the provisions on liability and privileges and immunities, shall apply to the provision of such support services. The MoJ shall retain overall responsibility for the nationally managed project through its designated institution. The responsibility of the UNDP country office for the provision of the support services described herein shall be limited to the provision of such support services detailed in the annex to the project document.

Any claim or dispute arising under or about the provision of support services by the UNDP country office in accordance with this letter shall be handled pursuant to the relevant provisions of the SBAA.

The manner and method of cost-recovery by the UNDP country office in providing the support services will be set forth in line with UNDP policy on Cost Recovery and DPC.

The UNDP country office shall submit progress reports on the support services provided and shall report on the costs reimbursed in providing such services, as may be required.

Any modification of the present arrangements shall be affected by mutual written agreement of the parties hereto.

If you agree with the provisions set forth above, please sign and return to this office two signed copies of this letter. Upon your signature, this letter shall constitute an agreement between the MoJ and UNDP on the terms and conditions for the provision of support services by the UNDP country office for the nationally managed project of the United Nations Development Programme (UNDP) and the Ministry of Justice of the Republic of Kazakhstan "Training Needs and Infrastructure Assessment: Academy of Justice".

Annex 4: Terms of Reference for key experts involved in the project implementation

Chief Technical Advisor terms of reference

Job assignment:	International consultancy to substantively coordinate and oversee the implementation of the High Judicial Council Institutional Strengthening Project
Duration:	Up to 60 work days over a 4-month period approximately (1 September 2018 to 31 December 2018)
Location:	On site (Astana) and home-based
Starting date:	1 September 2018 approximately

A. Background

The Republic of Kazakhstan, through its Ministry of Justice, with financial support from the International Bank for Reconstruction and Development (IBRD) is implementing the Justice Sector Institutional Strengthening Project (JSISP). The overall aim of the Project is to support institution-building activities for a wide range of justice related services provided by various state bodies and organisations.

The project's overall development objectives are: To strengthen the institutional capacity of selected agencies and organisations for the effective implementation of laws; and to improve the efficiency, transparency of, and access to selected public services in the justice sector.

The project beneficiaries include the Ministry of Justice (MOJ) – also the national implementing partner of this project – the Supreme Court (SC), the Academy of Justice (AJ), the General Prosecutor Office (GPO), the High Judicial Council (HJC) and the Ministry of Internal Affairs (MIA).

B. Objective of this assignment

This assignment relates to the project component on strengthening the key elements of the legal and institutional judicial framework in the Republic of Kazakhstan and its main task is twofold:

- i. Improve coordination and consultation processes and interaction among state organisations and other bodies with the aim to enhance the quality of law making through the adoption of good practices from around the world; and
- ii. Improve the capacity of the High Judicial Council in fulfilling its mandate successfully by:
[a] providing a comprehensive analysis of how similar institutions in other countries function; [b] identifying good practices suitable for the High Judicial Council in Kazakhstan with respect to its current and future key functions; and [c] providing recommendations for streamlining its key activities, for rationalising its composition and operation and for modernising its human resource management practices.

In this context, it is necessary to engage a Chief Technical Advisor (CTA) who will:

- i. Oversee the design and organisation of envisioned activities under the project's components and coordinate their implementation;
- ii. Prepare terms of reference and concept notes for the project envisioned activities, i.e. international and national consultants ToR, training entity ToR, roundtable and training sessions concept notes, etc;
- iii. Work closely with the international and national consultants to ensure the production of high quality reports;
- iv. Prepare progress reports for envisioned activities, when needed;

- v. Assess the quality of substantive reports generated through execution of this project; and
- vi. Cooperate with the project manager and project assistant on procedural matters that need to be accomplished, if needed.

C. Expected Outputs and Deliverables

The CTA is expected to contribute not only to the timely delivery of concept notes, terms of reference and prescribed reports, but also in ensuring that the quality of the content of the project deliverables satisfies fully the requirements of the project. In addition, the CTA is expected to ensure that the envisioned technical visits and training sessions yield the desired results, and in congruence with the mandate of the project.

D. Duration of the assignment

The consultant is expected to devote up to sixty (60) work days over a period of four (4) calendar months. This assignment is expected to commence on 1 September 2018 and be in effect until 31 December 2019. This period may be extended depending upon the progress made in all contingent aspects of the project (subject to satisfactory performance).

E. Location of the assignment

The CTA will work interchangeably between Astana and home. However, the CTA will most certainly be in Astana to attend coordination and information-gathering meetings with the Beneficiary and the UNDP Governance personnel and project team members, as and when required.

F. Institutional Arrangements

The CTA will provide his/her services under the guidance and direct supervision of the UNDP Head of the Governance Unit and/or the Governance Programme Analyst.

At the end of each month, the consultant will submit a brief report containing a summary of the work performed during the preceding month to the Programme Analyst, for verification and approval. Following approval of the report, the consultant will be paid for the number of days worked during the preceding month.

G. Required Skills and Experience

- Advanced university degree in law, public policy, political science, public administration and/or other related social sciences; a degree in the area of the justice sector will be considered an advantage;
- At least ten (10) years of international professional work experience, in coordinating complex projects and managing teams of experts and project staff; or holding equivalent management positions in projects of similar nature and scale as the current one;
- Working experience in international organisations dealing with development and capacity building programmes and projects; relevant experience in the judicial sector will be considered an advantage;
- Ability to interact with high government officials; also, be able to work closely with technical experts on a day-to-day basis, as well as to provide hands-on technical assistance and knowledge transfer;
- Excellent analytical skills and ability to write in a concise and comprehensible manner;
- Ability to work with tight deadlines and prepare reports for policy makers, at a short notice;
- Excellent command of the English language is mandatory; knowledge of Russian and/or Kazakh will be considered an advantage.

International Consultant for comparative analysis terms of reference

Job assignment:	International consultancy to provide substantive input for strengthening the institutional capacity of the High Judicial Council in optimising processes and interactions between state bodies and organisations engaged in law making and improving its quality of rulemaking; as well as in optimally performing its assigned and envisioned functions. Substantively coordinate and oversee the implementation of the High Judicial Council Institutional Strengthening Project
Duration:	Up to 70 work days over a 5-month period approximately (15 November 2018 to 15 March 2019)
Location:	On site (Astana) and home-based
Starting date:	1 October 2018 approximately

A. Background

The Republic of Kazakhstan, through its Ministry of Justice, with financial support from the International Bank for Reconstruction and Development (IBRD) is implementing the Justice Sector Institutional Strengthening Project (JSISP). The overall aim of the Project is to support institution-building activities for a wide range of justice related services provided by various state bodies and organisations.

The project's overall development objectives are to: Strengthen the institutional capacity of selected agencies and organisations for the effective implementation of laws; and Improve the efficiency, transparency of, and access to selected public services in the justice sector.

The project beneficiaries include the Ministry of Justice (MOJ) – also the national implementing partner of this project – the Supreme Court (SC), the Academy of Justice (AJ), the General Prosecutor Office (GPO), the High Judicial Council (HJC) and the Ministry of Internal Affairs (MIA).

B. Objective of this assignment

This assignment relates to the project component on strengthening the key elements of the legal and institutional judicial framework in the Republic of Kazakhstan and its main task is twofold:

- i. Improve coordination and consultation processes and interaction among state organisations and other bodies with the aim to enhance the quality of law making through the adoption of good practices from around the world; and
- ii. Improve the capacity of the High Judicial Council in fulfilling its mandate successfully by: [a] providing a comprehensive analysis of how similar institutions in other countries function; [b] identifying good practices suitable for the High Judicial Council in Kazakhstan with respect to performing its current and future key functions; and [c] providing recommendations for streamlining its key activities, for rationalising its composition and operation and for modernising its human resource management practices.

C. Context

1. Law making processes

Law making processes are regulated by the Law "On Legal Acts" and other relevant subordinate legal acts of the Republic of Kazakhstan. In this context, it is mandatory – for an organisation developing and drafting a regulatory act – to establish a working group consisting of: [i]

personnel of its legal department; [ii] personnel of the Institute for Legislation; [iii] representatives of research institutes familiar with the subject matter of the draft legal act; [iv] non-governmental organisations; [v] public associations; [vi] members of Parliament; and [vii] scientists in relevant fields of expertise.

In this connection, it seems reasonable to also include judges, considering their acquired knowledge and practical experience in the administration of justice, as their input may have a positive impact on the quality of the legal text under development. Currently, the involvement of judges in the law making process is not mandatory in Kazakhstan. However, according to Article 56 of the Law "On the Judicial System and Status of Judges of the Republic of Kazakhstan", a judge may be appointed – with the consent of the Chairman of the Supreme Court – to provide expert opinions to laws being drafted. In this case, a judge does not have to be selected from the personnel reserve or participate in a competitive selection process.

Apparently, it seems that some groundwork is already laid at the legislative level to allow judges' participation in law drafting. Hence, it seems reasonable to consider assigning the authority to appoint judges to law drafting cases to the High Judicial Council, should this process become mandatory in the future. For this reason, it would be advantageous to study and analyse international practices regarding the role of judges in the law making process. For example, some EU countries have Councils of Magistrates - equivalent to the High Judicial Council in Kazakhstan - mandated to assign certain judges and prosecutors to participate in law drafting processes.

2. Functional jurisdiction of judicial councils

The overarching purpose of the High Judicial Council – stipulated by the Constitution of the Republic of Kazakhstan - is to ensure that the constitutional powers of the President of the Republic are upheld in forming courts and guaranteeing the independence and immunity of judges.

The High Judicial Council was initially a consultative and advisory body under the President. Its jurisdiction included consideration of candidates envisioned to be appointed (and/or dismissed) as court chairmen, as chairmen of judicial boards, as judges of regional and equivalent courts and as judges of the Supreme Court. In December 2008, the High Judicial Council was transformed into an institution, without, however, the foundation of a legal entity. At the same time, its powers were enhanced by being assigned additional responsibilities pertaining to personnel-related issues regarding court chairmen and judges of district and equivalent courts, as well as conducting qualification examinations for candidate judges.

In January 2018, the High Judicial Council became an autonomous state institution performing the following functions:

- i. Provision of recommendations to the Head of State for the appointment and dismissal of judges of local and other courts, of Supreme Court judicial boards chairmen, of the chairman of the Supreme Court and of election of judges;
- ii. Conduct competitive selection processes for filling the positions of chairmen and judges of district courts, judges of regional courts, as well as of the Supreme Court;
- iii. Conduct qualification examinations for candidate judges;
- iv. Manage personnel-related and organisational issues of the judicial system, including:
[a] creation of a personnel reserve for executive judicial positions; [b] approval of performance assessment of judges following completion of one year of service; [c] provision of consent to changes in the number of serving judges; and [d] provision of recommendations for the establishment, reorganisation, reclassification and/or abolition of courts;

- v. Provision of recommendations to the Head of State on improving the judicial system and relevant legislation;
- vi. Guarantee the independence and immunity of judges through: [a] submission to the Head of State of statements of consent to prosecution of judges; and [b] consideration of judges' complaints against decisions of the Court Jury⁹;

There are two main types of judicial councils worldwide, depending on the scope of their functions: [i] those, whose functions include support of judicial careers; and [ii] those designed to administer judicial activities. For example, the functions of judicial councils in such countries as France, Italy, Portugal and Spain primarily include appointing judges and administering disciplinary measures, if needed. Conversely, judicial councils in such countries as Denmark, Ireland, Norway and Sweden have a clear division of the powers in personnel selection for the judiciary and court administration. These latter countries have an independent administrative organisation, whose main task is to administer and manage the activities of the courts.

In this context, it is considered imperative to observe and analyse international experience with respect to pros and cons of each system in place with respect to the High Judicial Council of the Republic of Kazakhstan.

3. Composition of judicial councils

The High Judicial Council of the Republic of Kazakhstan currently consists of: [i] Chairman of the High Judicial Council; [ii] Judges of district and regional courts and of the Supreme Court, as well as retired judges (judges and retired judges constitute 50 per cent of the membership of the High Judicial Council); [iii] Representatives of the legal community, i.e. lawyers and professors of law; [iv] Ex officio members, namely the Chairman of the Supreme Court, the General Prosecutor, the Minister of Justice, the Chairman of the Agency for Civil Service Affairs and Anti-Corruption and the Chairmen of the Senate and Majilis Committees of the Parliament respectively. The Council members are elected from among the judges for a term of three years – except for the Chairman of the Council and the ex officio members - among those who have been elected by the judicial community.

Various models of judicial councils' composition exist internationally. For example, Italy has the High Council of the Judiciary with the First President and the Prosecutor General of the Supreme Court of Cassation as ex officio members. The remaining 30 members of the Council are elected for a period of four years each, of which two thirds are elected by judges from among judges from courts at different levels and one third are elected by Parliament among university law professors and lawyers. Spain has the General Council of the Judiciary consisting of the President of the Supreme Court - who is also the President of the Council - and 20 members are elected for five years by judges of all categories - twelve of which are judges and the remaining eight experienced lawyers and other legal professionals. France has the Superior Council of the Magistracy, led by the President of the country. Nine of its members are appointed for a 4-year term by the President from among judges – including three from the Court of Cassation – and the rest are civil servants.

4. Human resources management functions of judicial councils

The High Judicial Council of the Republic of Kazakhstan is responsible for several human resource management functions: [i] the competitive selection process for the positions of chairmen and judges across all levels of courts¹⁰; [ii] the qualification examinations process for

⁹ A disciplinary body under the Supreme Court.

¹⁰ The judicial system of the Republic of Kazakhstan has 3 tiers of courts: [i] first instance courts, which include district and equivalent courts, and specialised courts, i.e. criminal, financial, juvenile, administrative investigative and military courts; [ii] courts of appeal, which include regional and equivalent courts, including the Supreme Military

candidate judges¹¹; [iii] the performance assessment approval of judges; and [iv] the creation of a personnel reserve for executive judicial positions.

Judges should be appointed by entities that are independent of the executive and legislative branches of government and they should apply transparent procedures in the process. Alternatively, judges may be appointed by the government or the head of state, if the recommendations for appointments are provided by an independent and competent entity. Such entities should be composed primarily of judges and legal professional and the majority of their members should be elected by judges from among their peers in ensure to ensure their independence.

Selection of judges should be based on clear, objective, transparent and non-discriminatory criteria related to their skills, moral qualities and professional qualifications. Promotion of judges should also adhere to the same and similar objective criteria and conducted using transparent and fair procedures.

Although the selection, appointment and promotion of judges in Kazakhstan generally adhere to commonly accepted standards, it seems necessary to study international standards and good practices, such as those contained in the European Charter of the Status of Judges, to modernise the High Judicial Court's human resource related practices and align them with international standards and practices.

5. Training and selection of candidate judges

There are currently two ways of training candidate judges in the Republic of Kazakhstan. The first is a two-year training course, a specialised master's programme provided by the Academy of Justice under the Supreme Court. When a candidate passes the qualification examination at the Academy becomes eligible to participate in a competitive process for a judgeship position. The second way consists of a few stages, namely: [i] sitting a qualification examination at the High Judicial Council; [ii] undergoing psychological testing; [iii] taking a computer-based test on knowledge of legislation; [iv] taking a polygraph examination; and [v] undergoing a one-year paid internship in a court. Once these five states are completed, a candidate may participate in a competitive process for a judgeship position. Examination results are valid for four years in both cases.

It is apparent that some areas in the current training system and selection process for judges need to be modernised, taking into account good practices and contemporary approaches to the subject matter. Such areas are: stages of the competitive selection processes, openness and transparency of the qualification examination procedures, content of examinations, extent of IT usage in the qualification examination processes, judges career advancement mechanisms.

Thus, this assignment should also examine the potential for international cooperation in the areas of training, selection and career advancement of judges and provide recommendations that would contribute to strengthening the institutional capacity of the High Judicial Council to optimise its processes, procedures and practices in these areas.

Court; and [iii] courts of cassation, which includes the Supreme Court.

¹¹ In accordance with the legislation of the Republic of Kazakhstan, candidate judges should meet certain requirements to be eligible for selection: [i] be citizens of the Republic; [ii] be at least 30 years old; [iii] possess a degree in law; [iv] a clean criminal record; [v] possess 10 years of legal experience or 5 years in court proceedings positions (e.g. court session secretary, lawyer, or prosecutor); and [vi] have no medical condition that may hinder their work as a judge. There are additional requirements applying to judges for higher courts, i.e. regional courts judges should possess 15 years of legal experience, including 5 years serving as judge and supreme court judges should possess 20 years of legal experience, including 10 years of service as judge, of which 5 years of service as a regional court judge.

6. Court management models

Three court management models exist, differentiated by the allocation of court management functions across the executive branch, the courts themselves and/or other judicial entities: [i] internal management; [ii] shared management; and [iii] external management model.

The internal court management model entails the existence of a self-governed judicial organisation, independent of the executive and legislative branches of government, and set apart from other judicial entities. The majority of its members are judges elected by their own peers. Such models are existent in Japan, South Korea and the United States; and partly in Kazakhstan. The shared court management model entails the existence of a self-governed body which is responsible for selection, career development and disciplinary actions of judges co-existing with an executive entity - usually the Ministry of Justice - which is responsible for the management and resources of the courts. Such a model is practiced in Bulgaria, Finland, France, Germany, Italy, Netherlands, Poland, Portugal, Spain and United Kingdom. In the external court management model, management functions are entirely assigned to an executive entity, with no relevant judicial entity in existence (for example, the Soviet Union court management model).

Consequently, this assignment should also focus on the current system of courts management in Kazakhstan and provide suitable recommendations to improve it.

D. Expected Outputs and Deliverables

This assignment is expected to ultimately provide an extensive report containing a comparative analysis of the issues mentioned above, namely:

- i. Law making processes with respect to coordination and consultation modalities and interaction among state entities responsible for the quality of law making;
- ii. Functional jurisdiction of judicial councils;
- iii. Composition of judicial councils;
- iv. Human resources management functions of judicial councils in selection, appointment, promotion and career advancement of judges;
- v. Training and selection of candidate judges;
- vi. Court management systems;
- vii. Recommendations to the High Judicial Council – and by extension to the Ministry of Justice, in streamlining its key activities, rationalising its composition, modernising its human resource management practices; and
- viii. Propose the necessary legal amendments that need to be enacted for such recommendations to be gradually implemented.

The prospective consultant will analyse policies, legislation, procedures and current practices of:

- i. Kazakhstan, in cooperation with a national consultant, who will also be recruited for the purpose;
- ii. At least five developed countries, i.e. France, Italy, Singapore, South Korea, Spain, United Kingdom, United States, etc that have good practices in place for ensuring the independence and immunity of judges, as well as good models for the selection and appointment of candidate judges, their training and performance assessment; and
- iii. At least three other countries that have made significant progress recently in these areas and have successfully incorporated such modalities into their national legislation and practice. The analysis should also cover all international legislation and regulation pertaining to the issues mentioned above.

In other words, the deliverable of this assignment is expected to be an extensive and comprehensive report, which must include, but not be limited to, the following:

- i. Identification of common patterns, principles and peculiarities pertaining to the organisational structure, activities and functions of the High Judicial Council of the Republic of Kazakhstan and similar organisations in other countries, e.g. Italy, Singapore, South Korea, Spain, United Kingdom, United States, and few other;
- ii. Comparative analysis of legislation and other legal documents that regulate the organisation, operation and internal processes of judicial councils, or similar organisations, in Kazakhstan and in other countries, e.g. Italy, Singapore, South Korea, Spain, United Kingdom, United States, and few other;
- iii. Comparative analysis of the modalities and procedures such judicial councils or similar entities employ to interact with other justice sector organisations, other state entities and other relevant organisations, if any;
- iv. Identification of legal rules and regulations, as well as practices, in other countries, e.g. Italy, Singapore, South Korea, Spain, United Kingdom, United States, and few other, that may be supportive in institutionalising judges' participation in the law making process in Kazakhstan;
- v. Identification of policies and procedures, as well as practices in other countries, e.g. Italy, Singapore, South Korea, Spain, United Kingdom, United States, and few other, that may assist in strengthening the judiciary's independence and ensuring immunity for judges in Kazakhstan;
- vi. Comparative analysis of court management systems in place, in other countries, e.g. Italy, Singapore, South Korea, Spain, United Kingdom, United States, and few other, highlighting the pros and cons of each system (the role, legal nature and criteria of court management models internationally); and providing recommendations that may assist in improving the court management system in Kazakhstan;
- vii. Comparative analysis of procedures and mechanisms utilised in competitive selection processes for judges, in other countries, e.g. Italy, Singapore, South Korea, Spain, United Kingdom, United States, and few other – including qualification examinations and other means used for the selection of judges – and those used in Kazakhstan;
- viii. Comparative analysis of methods and procedures utilised for ensuring transparency and openness in all stages of competitive selection processes of judges, in other countries, e.g. Italy, Singapore, South Korea, Spain, United Kingdom, United States, and few other, that may contribute in improving the current system employed in Kazakhstan;
- ix. Comparative analysis of procedures and mechanisms utilised for filling judicial vacancies and for the promotion and career advancement of judges, in other countries, e.g. Italy, Singapore, South Korea, Spain, United Kingdom, United States, and few other, and those utilised in Kazakhstan;
- x. Identification of IT solutions and other digital technologies utilised in the selection and training of sitting and candidate judges, in other countries, e.g. Italy, Singapore, South Korea, Spain, United Kingdom, United States, and few other, and provision of recommendations that may contribute to improving the current system employed in Kazakhstan;
- xi. Identification of methods and techniques for organising, implementing and assessing candidate judges' internships, in other countries, e.g. Italy, Singapore, South Korea, Spain, United Kingdom, United States, and few other, that may contribute to improving the current system in place in Kazakhstan;

- xii. Identification of measures that may contribute to the institutional strengthening of the High Judicial Council in Kazakhstan, including its organisation, operations, composition and functional jurisdiction;
- xiii. Identification of practices that may enhance the High Judicial Council's involvement in international cooperation, information and knowledge exchange activities, related to the selection, appointment, promotion, training and career advancement of judges, among other.

However, given the multitude of issues involved, as well as the volume of material to cover, the consultant will first provide a condensed report encompassing the most critical elements in relation to the mandate of this project. The consultant will then follow with a fully-fledged report covering all issues described above.

The international consultant is expected to provide the prescribed deliverables in a timely and professional manner throughout the period this contract is in force.

E. Duration of the assignment

The consultant is expected to devote a maximum of seventy (70) work days over a period of four (4) calendar months. This assignment is expected to commence on 1 October 2018 and be in effect until 31 January 2019. This period may be extended depending upon progress made in all contingent aspects of the project (subject to satisfactory performance).

F. Location of the assignment

The consultant will work primarily from home with occasional visits to Astana. The consultant will most certainly be in Astana to attend coordination and information-gathering meetings with the Beneficiary and the UNDP Governance personnel and project team members, as and when required. In this connection, the consultant may make up to three (3) trips between his/her home base and Astana. The duration of each trip is estimated to last up to ten (10) work days on average. In the eventuality the consultant is required to travel more than the number of times envisioned in these terms of reference or stay in Astana for an additional number of days, UNDP will bear all additional expenses incurred.

G. Institutional Arrangements

The consultant will provide his/her services under the guidance and direct supervision of the UNDP Governance Programme Analyst / Head of Unit and/or the Chief Technical Advisor of this Project and he/she will make available all written materials to the Programme Analyst and the Chief Technical Advisor.

The consultant is also expected to work closely with a national consultant, who will be hired, primarily to develop proposals for legal amendments and additions to the current legislation in Kazakhstan, but also to assist in analysing and documenting the current situation in Kazakhstan with respect to the issues involved in this assignment.

At the end of each month, the consultant will submit a brief report containing a summary of the work performed during the preceding month to the Programme Analyst, for verification and approval. Following approval of the report, the consultant will be paid for the number of days worked during the preceding month.

H. Required Skills and Experience

- Advanced university degree in law, public policy, political science, public administration and/or other related social sciences; a degree in the area of the justice sector will be considered an advantage;
- At least ten (10) years of international professional experience, including solid experience of organisations and structures in the justice sector and/or human

resources and organisational management in the public sector; working experience in the justice sector, particularly with human resources and organisational aspects will be considered an advantage;

- At least five (5) years of international professional experience in drafting legal documents, i.e. laws, regulations, etc; as well as proven experience in the analysis of legislation, and other legal instruments pertaining to the judicial sector, in particular;
- Proven high-level knowledge and experience in providing expert advisory and/or consultancy services on matters and issues pertaining to the judicial sector;
- Working experience in international organisations dealing with development and capacity building programmes and projects; relevant experience in the judicial sector will be considered an advantage;
- Ability to interact with high government officials; also, be able to work closely with technical experts on a day-to-day basis, as well as to provide hands-on technical assistance and knowledge transfer;
- Excellent analytical skills and ability to write in a concise and comprehensible manner;
- Ability to work with tight deadlines and prepare reports for policy makers, at a short notice;
- Excellent command of the English language is mandatory; knowledge of Russian and/or Kazakh will be considered an advantage.

I. Evaluation of Applicants

Individual consultants will be evaluated based on a cumulative analysis taking into consideration the combination of the applicants' qualifications and financial proposal.

The award of the contract should be made to the individual consultant whose offer has been evaluated and determined as:

- Responsive/compliant/acceptable; and
- Having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation.

Only the highest ranked candidates who would be found qualified for the job will be considered for the Financial Evaluation.

Technical Criteria - 70% of total evaluation – 70 points maximum:

Criteria		Max. points
A.	Education: Master's Degree in Law, Public Policy, Political Science, Public Administration and/or other related fields of study	2.5
B.	Professional Experience: at least 10 years of relevant professional experience, including solid experience in human resources management practices in the public sector, preferably in the justice sector	10.0
C.	Specific professional experience: at least 5 year of relevant professional experience in drafting legal documents	10.0
D.	Proven experience in the analysis of legislation, and other legal instruments pertaining to the judicial sector	10.0
E.	Proven high-level knowledge and experience in providing expert advisory and/or consultancy services on matters and issues pertaining to the judicial sector	15.0

F.	Working experience in international organisations dealing with programmes and projects pertaining to the development and capacity building of the judicial sector will be considered an advantage	7.5
G.	Excellent analytical skills including oral and written communication	5.0
H.	Ability to write in a concise, lucid, and comprehensible manner	5.0
I.	Excellent command of the English language is required; knowledge of Russian will be considered an advantage	5.0
	TOTAL	70.0

Financial Criteria - 30% of total evaluation – 30 points maximum:

The consultant is expected to accompany his/her application with a financial offer that should include the following information: [i] A daily fee for the whole duration of the contract; [ii] Air transportation cost for travelling between his/her home base and Astana, per trip; [iii] Accommodation related costs and incidental expenses while in Astana, per day; and [iv] A table presenting the above information for up to 70 work days, 2 air trips and 55 nights stay in Astana. All amounts should be expressed in USD.

J. Application procedures

Qualified candidates are requested to apply online through the UNDP Kazakhstan website. The application should contain: [i] Cover letter explaining why the candidate is the most suitable candidate for the advertised position; [ii] Updated CV; and [iii] Financial Proposal¹² - specifying that the daily fee will remain the same throughout the duration of this contract; and presenting the information as described above.

Deadline for receiving applications: 30 September 2018.

¹² Please note that the financial proposal is **all-inclusive** and should take into account various expenses incurred by the consultant/contractor during the contract period (e.g. daily fee, health insurance, vaccination and any other relevant expenses related to the performance of services...). All envisaged travel costs must be included in the financial proposal.

National Consultant to provide draft legal amendments terms of reference

Job assignment:	National consultancy to provide substantive input in developing draft legal acts for amending existing legislation, as well as to assist an international consultant in imprinting the current status of the judicial sector in Kazakhstan.
Duration:	Up to 70 work days over a 3-month period. (1 November 2018 – 31 January 2019).
Location:	On location (Astana, Kazakhstan)
Starting date:	1 November 2018 (approximately).
Application deadline:	21 October 2018.

A. Background

The Republic of Kazakhstan, through its Ministry of Justice, with financial support from the International Bank for Reconstruction and Development (IBRD) is implementing the Justice Sector Institutional Strengthening Project (JSISP). The overall aim of the Project is to support institution-building activities for a wide range of justice related services provided by various state bodies and organisations.

The project's overall development objectives are to:

- i. Strengthen the institutional capacity of selected agencies and organisations for the effective implementation of laws; and
- ii. Improve the efficiency, transparency of, and access to selected public services in the justice sector.

The project beneficiaries include the Ministry of Justice (MOJ) – also the national implementing partner of this project – the Supreme Court (SC), the Academy of Justice (AJ), the General Prosecutor Office (GPO), the High Judicial Council (HJC) and the Ministry of Internal Affairs (MIA).

B. Objective of this assignment

This assignment relates to the project component on strengthening the key elements of the legal and institutional judicial framework in the Republic of Kazakhstan and its main tasks include:

- i. Drafting proposed legal amendments and additions to the current legislation of the Republic of Kazakhstan aimed at [a] improvement of the activities of the High Judicial Council; [b] institutionalisation of the participation of judges in the law making process; and [c] improvement in the current selection and training systems for judges;
- ii. Complementing the work of the international consultant - who will be hired to provide a comparative analysis of issues and matters relevant to improving the capacity of the High Judicial Council in fulfilling its mandate successfully - by providing a descriptive account of the current state of affairs on the issues and matters in Kazakhstan.¹³

¹³ The international consultant will: [a] provide a comprehensive analysis of how similar institutions in other countries function; [b] identify good practices suitable for the High Judicial Council in Kazakhstan with respect to performing its current and future key functions; and [c] provide recommendations for the High Judicial Council to streamline its key activities, for rationalising its composition and operation and for modernising its human resource management practices.

C. Context

1. Law making processes

Law making processes are regulated by the Law "On Legal Acts" and other relevant subordinate legal acts of the Republic of Kazakhstan. In this context, it is mandatory – for an organisation developing and drafting a regulatory act – to establish a working group consisting of: [i] personnel of its legal department; [ii] personnel of the Institute for Legislation; [iii] representatives of research institutes familiar with the subject matter of the draft legal act; [iv] non-governmental organisations; [v] public associations; [vi] members of Parliament; and [vii] scientists in relevant fields of expertise.

In this connection, it seems reasonable to also include judges, taking into account their acquired knowledge and practical experience in the administration of justice, as their input may have a positive impact on the quality of the legal text under development. Currently, the involvement of judges in the law making process is not mandatory in Kazakhstan. However, according to Article 56 of the Law "On the Judicial System and Status of Judges of the Republic of Kazakhstan", a judge may be appointed – with the consent of the Chairman of the Supreme Court – to provide expert opinions to laws being drafted. In this case, a judge does not have to be selected from the personnel reserve or participate in a competitive selection process.

Apparently, it seems that some groundwork is already laid at the legislative level to allow judges' participation in law drafting. Hence, it seems reasonable to consider assigning the authority to appoint judges to law drafting cases to the High Judicial Council, should this process become mandatory in the future.

2. Functional jurisdiction of judicial councils

The overarching purpose of the High Judicial Council – stipulated by the Constitution of the Republic of Kazakhstan - is to ensure that the constitutional powers of the President of the Republic are upheld in forming courts and guaranteeing the independence and immunity of judges.

The High Judicial Council was initially a consultative and advisory body under the President. Its jurisdiction included consideration of candidates envisioned to be appointed (and/or dismissed) as court chairmen, as chairmen of judicial boards, as judges of regional and equivalent courts and as judges of the Supreme Court. In December 2008, the High Judicial Council was transformed into an institution, without, however, the foundation of a legal entity. At the same time, its powers were enhanced by being assigned additional responsibilities pertaining to personnel-related issues regarding court chairmen and judges of district and equivalent courts, as well as conducting qualification examinations for candidate judges.

In January 2018, the High Judicial Council became an autonomous state institution performing the following functions:

- vii. Provision of recommendations to the Head of State for the appointment and dismissal of judges of local and other courts, of Supreme Court judicial boards chairmen, of the chairman of the Supreme Court and of election of judges;
- viii. Conduct competitive selection processes for filling the positions of chairmen and judges of district courts, judges of regional courts, as well as of the Supreme Court;
- ix. Conduct qualification examinations for candidate judges;
- x. Manage personnel-related and organisational issues of the judicial system, including: [a] creation of a personnel reserve for executive judicial positions; [b] approval of performance assessment of judges following completion of one year of service; [c] provision of consent to changes in the number of serving judges; and [d]

- provision of recommendations for the establishment, reorganisation, reclassification and/or abolition of courts;
- xi. Provision of recommendations to the Head of State on improving the judicial system and relevant legislation;
 - xii. Guarantee the independence and immunity of judges through: [a] submission to the Head of State of statements of consent to prosecution of judges; and [b] consideration of judges' complaints against decisions of the Court Jury¹⁴;

There are two main types of judicial councils worldwide, depending on the scope of their functions: [i] those, whose functions include support of judicial careers; and [ii] those designed to administer judicial activities. For example, the functions of judicial councils in such countries as France, Italy, Portugal and Spain primarily include appointing judges and administering disciplinary measures, if and when needed. Conversely, judicial councils in such countries as Denmark, Ireland, Norway and Sweden have a clear division of the powers in personnel selection for the judiciary and court administration. These latter countries have an independent administrative organisation, whose main task is to administer and manage the activities of the courts.

In this context, it is considered imperative to methodically record the current system in place, with respect to the High Judicial Council of the Republic of Kazakhstan, in order to compare with the systems in other countries.

3. Composition of judicial councils

The High Judicial Council of the Republic of Kazakhstan currently consists of: [i] Chairman of the High Judicial Council; [ii] Judges of district and regional courts and of the Supreme Court, as well as retired judges (judges and retired judges constitute 50 per cent of the membership of the High Judicial Council); [iii] Representatives of the legal community, i.e. lawyers and professors of law; [iv] Ex officio members, namely the Chairman of the Supreme Court, the General Prosecutor, the Minister of Justice, the Chairman of the Agency for Civil Service Affairs and Anti-Corruption and the Chairmen of the Senate and Majilis Committees of the Parliament respectively. The Council members are elected from among the judges for a term of three years – except for the Chairman of the Council and the ex officio members - among those who have been elected by the judicial community.

Various models of judicial councils' composition exist internationally. For example, Italy has the High Council of the Judiciary with the First President and the Prosecutor General of the Supreme Court of Cassation as ex officio members. The remaining 30 members of the Council are elected for a period of four years each, of which two thirds are elected by judges from among judges from courts at different levels and one third are elected by Parliament among university law professors and lawyers. Spain has the General Council of the Judiciary consisting of the President of the Supreme Court - who is also the President of the Council - and 20 members are elected for five years by judges of all categories - twelve of which are judges and the remaining eight experienced lawyers and other legal professionals. France has the Superior Council of the Magistracy, led by the President of the country. Nine of its members are appointed for a 4-year term by the President from among judges – including three from the Court of Cassation – and the rest are civil servants.

4. Human resources management functions of judicial councils

The High Judicial Council of the Republic of Kazakhstan is responsible for several human resource management functions: [i] the competitive selection process for the positions of

¹⁴ A disciplinary body under the Supreme Court.

chairmen and judges across all levels of courts¹⁵; [ii] the qualification examinations process for candidate judges¹⁶; [iii] the performance assessment approval of judges; and [iv] the creation of a personnel reserve for executive judicial positions.

Judges should be appointed by entities that are independent of the executive and legislative branches of government and they should apply transparent procedures in the process. Alternatively, judges may be appointed by the government or the head of state, as long as the recommendations for appointments are provided by an independent and competent entity. Such entities should be composed primarily of judges and legal professional and the majority of their members should be elected by judges from among their peers in ensure to ensure their independence.

Selection of judges should be based on clear, objective, transparent and non-discriminatory criteria related to their skills, moral qualities and professional qualifications. Promotion of judges should also adhere to the same and similar objective criteria and conducted through the use of transparent and fair procedures.

Although the selection, appointment and promotion processes of judges in Kazakhstan generally adhere to commonly accepted standards, it seems necessary to compare it with international standards and good practices, such as those contained in the European Charter of the Status of Judges, in order to modernise the High Judicial Court's human resource related practices and align them with international standards and practices.

5. Training and selection of candidate judges

There are currently two ways of training candidate judges in the Republic of Kazakhstan. The first is a two-year training course, a specialised master's programme provided by the Academy of Justice under the Supreme Court. When a candidate passes the qualification examination at the Academy becomes eligible to participate in a competitive process for a judgeship position. The second way consists of a few stages, namely: [i] sitting a qualification examination at the High Judicial Council; [ii] undergoing psychological testing; [iii] taking a computer-based test on knowledge of legislation; [iv] taking a polygraph examination; and [v] undergoing a one-year paid internship in a court. Once these five states are completed, a candidate may participate in a competitive process for a judgeship position. Examination results are valid for four years in both cases.

It is apparent that some areas in the current training system and selection process for judges need to be modernised, taking into account good practices and contemporary approaches to the subject matter. Such areas are: stages of the competitive selection processes, openness and transparency of the qualification examination procedures, content of examinations, extent of IT usage in the qualification examination processes, judges career advancement mechanisms.

¹⁵ The judicial system of the Republic of Kazakhstan has 3 tiers of courts: [i] first instance courts, which include district and equivalent courts, and specialised courts, i.e. criminal, financial, juvenile, administrative investigative and military courts; [ii] courts of appeal, which include regional and equivalent courts, including the Supreme Military Court; and [iii] courts of cassation, which includes the Supreme Court.

¹⁶ In accordance with the legislation of the Republic of Kazakhstan, candidate judges should meet certain requirements to be eligible for selection: [i] be citizens of the Republic; [ii] be at least 30 years old; [iii] possess a degree in law; [iv] a clean criminal record; [v] possess 10 years of legal experience or 5 years in court proceedings positions (e.g. court session secretary, lawyer, or prosecutor); and [vi] have no medical condition that may hinder their work as a judge. There are additional requirements applying to judges for higher courts, i.e. regional courts judges should possess 15 years of legal experience, including 5 years serving as judge and supreme court judges should possess 20 years of legal experience, including 10 years of service as judge, of which 5 years of service as a regional court judge.

Thus, this assignment should also record in detail the training, selection and career advancement processes in place in order to compare with those in other countries, ultimately aiming at strengthening the institutional capacity of the High Judicial Council to optimise its processes, procedures and practices in these areas.

6. Court management models

Three court management models exist, differentiated by the allocation of court management functions across the executive branch, the courts themselves and/or other judicial entities: [i] internal management; [ii] shared management; and [iii] external management model.

The internal court management model entails the existence of a self-governed judicial organisation, independent of the executive and legislative branches of government, and set apart from other judicial entities. The majority of its members are judges elected by their own peers. Such models are existent in Japan, South Korea and the United States; and partly in Kazakhstan. The shared court management model entails the existence of a self-governed body which is responsible for selection, career development and disciplinary actions of judges co-existing with an executive entity - usually the Ministry of Justice - which is responsible for the management and resources of the courts. Such a model is practiced in Bulgaria, Finland, France, Germany, Italy, Netherlands, Poland, Portugal, Spain and United Kingdom. In the external court management model, management functions are entirely assigned to an executive entity, with no relevant judicial entity in existence (for example, the Soviet Union court management model).

Consequently, this assignment should also focus on the current system of courts management in Kazakhstan and provide suitable recommendations to improve it, in cooperation with an international consultant, who will be hired to conduct a comparative analysis across several other countries.

D. Expected Outputs and Deliverables

This assignment is expected to ultimately provide two main outputs and deliverables, namely:

- i. A report describing the current state of affairs on the issues described in the previous section (this report will be part of the comparative analysis that an international consultant, hired for the purpose, will conduct);
- ii. A draft law that will contain all necessary legal amendments to existing legislation, as well as any additions needed for the recommended changes to be implemented.

The draft law containing proposals for improvements in the current legislation should take into consideration, at least the following legal provisions that define:

- i. Internal processes of the High Judicial Council;
- ii. Interaction among the High Judicial Council, other state bodies, including other judiciary organisations;
- iii. Participation of judges in the law making process and their role in this process;
- iv. Procedures and mechanisms for the competitive selection for judges;
- v. Methods and methodologies for selecting candidates to fill judicial vacancies;
- vi. Procedures for administering qualification examinations for a judgeship position;
- vii. Models and mechanisms for career advancement of judges;
- viii. Openness and transparency in all stages of the competitive selection process for judges.

However, given the multitude of issues involved, as well as the volume of material to cover, the national consultant will first provide a draft law encompassing the most critical elements in relation to the mandate of this project by 15 December 2018. The national consultant will then

follow with a fully-fledged draft law covering all issues described above, no later than 30 January 2019.

The national consultant is expected to provide the prescribed deliverables in a timely and professional manner throughout the period this contract is in force.

E. Duration of the assignment

The consultant is expected to devote a maximum of seventy (70) work days over a period of three (3) calendar months. This assignment is expected to commence on 1 November 2018 and be in effect until 31 January 2019. This period may be extended depending upon progress made in all contingent aspects of the project (subject to satisfactory performance).

F. Location of the assignment

The national consultant will work in Kazakhstan, with occasional visits to Astana (if not from Astana). However, the national consultant will most certainly be in Astana to attend coordination and information-gathering meetings with the Beneficiary and the UNDP Governance personnel and project team members, as and when required. In this connection, the national consultant may make up to three (3) trips between his/her home base and Astana. The duration of each trip is estimated to last up to five (5) work days on average. In the eventuality the national consultant is required to travel more than the number of times envisioned in these terms of reference or stay in Astana for an additional number of days, UNDP will bear all additional expenses incurred.

G. Institutional Arrangements

The consultant will provide his/her services under the guidance and direct supervision of the UNDP Governance Programme Analyst / Head of Unit and/or the Governance Programme Associate and/or the Chief Technical Advisor of this Project and he/she will make available all written materials to the Programme Analyst.

The consultant is also expected to work closely with an international consultant, who will be hired, primarily to prepare a comparative analysis of issues relevant to this assignment of countries around the world and Kazakhstan, but also to provide his/her input to the draft proposals for legal amendments and additions.

develop proposals for legal amendments and additions to the current legislation in Kazakhstan, but also to assist in analysing and documenting the current situation in Kazakhstan with respect to the issues involved in this assignment.

At the end of each month, the consultant will submit a brief report containing a summary of the work performed during the preceding month to the Programme Analyst, for verification and approval. Following approval of the report, the consultant will be paid for the number of days worked during the preceding month.

H. Required Skills and Experience

- Advanced university degree in law, or a relevant discipline;
- At least six (6) years of professional work experience in the judicial system and/or the justice sector; or in providing consultancy services in the pertinent areas of this assignment;
- Proven professional experience in drafting legal documents, i.e. laws, regulations, etc;
- Proven experience in the analysis of legislation and other legal instruments; experience with legal instruments pertaining to the judicial sector will be considered an advantage;

- Proven high-level knowledge of the legislation of the Republic of Kazakhstan;
- Experience in analytical and comparative law work;
- Knowledge of English and Russian languages are mandatory; knowledge of Kazakh also is considered an advantage.
- Ability to interact with high government officials; also, be able to work closely with technical experts on a day-to-day basis;
- Excellent analytical skills and ability to write in a concise and comprehensible manner;
- Ability to work with tight deadlines and prepare reports for policy makers, at a short notice.

I. Evaluation of Applicants

Individual consultants will be evaluated based on a cumulative analysis taking into consideration the combination of the applicants' qualifications and financial proposal.

The award of the contract should be made to the individual consultant whose offer has been evaluated and determined as:

- Responsive/compliant/acceptable; and
- Having received the highest score out of a pre-determined set of weighted technical and financial criteria specific to the solicitation.

Only the highest ranked candidates who would be found qualified for the job will be considered for the Financial Evaluation.

Technical Criteria - 70% of total evaluation – 70 points maximum:

Criteria		Max. points
A.	Education qualifications	5.0
B.	Professional Experience	15.0
C.	Experience in drafting legal documents	15.0
D.	Experience in the analysis of legislation, and other legal instruments pertaining to the judicial sector	15.0
E.	Knowledge of the legislation of the Republic of Kazakhstan	10.0
F.	Experience in comparative law work	5.0
G.	Excellent command of Russian and English languages ¹⁷	5.0
TOTAL		70.0

Financial Criteria - 30% of total evaluation – 30 points maximum:

The consultant is expected to accompany his/her application with a financial offer that should include the following information: [i] A daily fee for the whole duration of the contract; [ii] Air transportation cost for travelling between his/her home base and Astana, per trip; [iii] Accommodation related costs and incidental expenses while in Astana, per day; and [iv] A table presenting the above information for up to 70 work days, 3 air tickets from home to Astana and up to 15 nights stay in Astana. All amounts should be expressed in USD.

J. Application procedures

Qualified candidates are requested to apply online through the UNDP Kazakhstan website. The application should contain: [i] Cover letter explaining why the candidate is the most suitable

¹⁷ This criterion is considered crucial, in the sense that if a candidate does possess excellent command of both languages required, will be automatically excluded from the selection process.

candidate for the advertised position; [ii] Updated CV; and [iii] Financial Proposal¹⁸ - specifying that the daily fee will remain the same throughout the duration of this contract; and presenting the information as described above.

Deadline for receiving applications: 21 October 2018.

¹⁸ Please note that the financial proposal is **all-inclusive** and should take into account various expenses incurred by the consultant/contractor during the contract period (e.g. daily fee, health insurance, vaccination and any other relevant expenses related to the performance of services...). All envisaged travel costs must be included in the financial proposal.