

## PROJECT DESCRIPTION

### 1.1. PROJECT SUMMARY

Title	<b>Support to the Kazakh authorities in improving the quality and efficiency of the Kazakh justice system</b>
Location(s)	Republic of Kazakhstan
Total duration of the action	36 months (25 July 2014 - 24 July 2017)
Total Budget	1,666,413 EUR (100% financed by the EU)
Objectives of the action	<p><b>Overall objective:</b> To bring Kazakhstan’s criminal justice framework and institutional practice in line with European and international standards and practices by supporting the country’s authorities in their efforts to improve the justice system in the medium and long term.</p> <p><b>Specific objective</b> Criminal proceedings and trial are based on human rights standards.</p>
National partner(s)	<ul style="list-style-type: none"> <li>• General Prosecutor’s Office</li> <li>• Supreme Court</li> <li>• Ministry of Justice</li> <li>• Institute of Justice of the Academy of Public Administration under the President of the Republic of Kazakhstan</li> <li>• Commissioner for Human Rights and the National Human Rights Centre</li> <li>• National Preventive Mechanism</li> <li>• Republican Association of Advocates.</li> </ul>
Other partner(s)	Project implementation will also involve other relevant state authorities such as the Parliament, the Agency for Civil Services Affairs and Anti-Corruption, Ministry of Foreign Affairs, Ministry of Internal Affairs, Highest Judicial Council, as well as national NGOs and other international organisations represented in Kazakhstan.
Target group(s) <sup>1</sup>	Judges, prosecutors, investigators, professionals working in the field of the justice system such as lawyers, mediators, members of the National Preventive Mechanism etc.

<sup>1</sup> “Target groups” are the groups/entities who will be directly positively affected by the project.

Final beneficiaries <sup>2</sup>	Individuals seeking protection of their rights in Kazakh courts, or by using other available complaints mechanisms and general public.
Expected results	<p>The Project is expected to achieve the following results under the Specific Objective<sup>3</sup>:</p> <ol style="list-style-type: none"> <li>1. Criminal proceedings and trials are based on fair trial requirements for adversarial proceedings, publicity, and impartiality/Criminal proceedings are open to public scrutiny. Judges, prosecutors and defence lawyers acquire fair trial skills;</li> <li>2. Protection and promotion of human rights and fundamental freedoms in criminal justice system expanded</li> </ol>
Main activities	The Project objectives will be pursued through legislative assistance by developing and improving the regulatory framework and institutional capacity of the main stakeholders to address the systemic and/or structural problems that characterise the Kazakh criminal justice system and human rights protection. Capacity-building activities for the judges, prosecutors, investigators, defence lawyers, Ombudsman Institution, NPM and other participants to the criminal justice system will be carried out as a means of contributing to their institutional development with a view to enable them to exercise their functions in line with human rights standards.

<sup>2</sup> “Final beneficiaries” are those who will benefit from the project in the long term at the level of the society or sector at large.

<sup>3</sup> To avoid confusion the enumeration of Project results (R4 and R5) as indicated in the DoA is changed and the expected results are referred to as result 1 and 2.

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## 1.2. DESCRIPTION OF EXPECTED RESULTS

**Expected result 1: Criminal proceedings and trials are based on fair trial requirements for adversarial proceedings, publicity, and impartiality/ Criminal proceedings are open to public scrutiny. Judges, prosecutors and defence lawyers acquire fair trial skills.**

This Result will be divided in the following topics that will determine the areas of intervention under the Project:

- 1) **Impartiality and independence of the courts;**
- 2) **Fair trial guarantees in pre-trial detention;**
- 3) **Fair trial requirements for adversarial proceedings;**
- 4) **Right to legal assistance;**
- 5) **Novelties in the criminal justice system.**

### **1) Impartiality and independence of the courts**

The Project will facilitate discussions regarding the independence and impartiality of the judiciary, existing international standards and best practices related to selection, appointment, promotion and dismissal of judges for those responsible for judicial reform as policy-makers, members of the judicial self-governing body and judges, and thus, foster debate on the need to promote corresponding reforms that would strengthen the independence of the individual judges and of the judiciary as a whole. Subject to the request and commitment of the Kazakh authorities in undertaking reforms related to the judicial branch, the Project will provide expert assessment of the existing relevant legislation and further development of rules related to selection, appointment, promotion and dismissal of judges and other aspects that are crucial for the independence of the judiciary in line with European standards and best practices.

### **2) Fair trial guarantees in pre-trial detention**

The Project will support the development of corresponding training curricula and will publish relevant international standards.

### **3) Fair trial requirements for adversarial proceedings**

#### **Equality of arms**

The Project will build the capacity of the investigative judges to balance the rights of the parties with the view to ensure observance of the equality of arms principle at the pre-trial stage.

#### **Right to adequate time and to adequate facilities**

Defence lawyers will be provided with intensive trainings into the content and substance of this right.

#### **4) Right to legal assistance**

The Project will contribute to strengthening of the Republican Association of Advocates' institutional capacity with the view to enable it to represent the interest of its members and to provide a credible counterpart to organisations representing other groups of legal professionals at national level. A study visit for the Association's representatives will be organised to a European country Bar Association to build cooperation and learn from its experiences. Moreover, the Project will assist the Republican Association of Advocates ensuring its statutory function of delivering trainings for lawyers as a part of continuous legal training by developing curricula relevant to the topics of the Project, improving the methodology for identifying the current training needs of the lawyers and create a pool of national trainers capable to further deliver seminars to lawyers throughout the country.

#### **5) Novelties in the criminal justice system**

The Project will devote efforts to ensuring that the guilty plea proceedings are conducted in line with European standards. Therefore, trainings for the defence lawyers, prosecutors and judges will be carried out in order to ensure that the institute of plea-bargaining is applied in a manner that is not in detriment to the purposes of the criminal justice. In addition, detailed guidelines for judges, prosecutors and lawyers will be developed.

#### **Expected Result 2: Protection and promotion of human rights and fundamental freedoms in criminal justice system expanded**

This Result will be divided in the following topics that will determine the areas of intervention under the Project:

- 1) The mechanism for submitting and reviewing petitions/complaints by citizens to the Commissioner for Human Rights (Ombudsman)**
- 2) The monitoring function of the NPM to prevent and combat ill-treatment**
- 3) Establishment of an independent and effective mechanism for prompt, impartial and effective investigation of torture and ill-treatment**
- 4) Mediation in criminal matters**

#### **1) The mechanism for submitting and reviewing petitions/complaints by citizens to the Commissioner for Human Rights (Ombudsman)**

The Project will pursue through a range of activities targeting the Ombudsman's Office, including via the advocacy of the review of the current legislative framework concerning the establishment of the position of the Ombudsman, the characteristics and functions of the office, the procedure of election of Ombudsman and the adoption of appropriate guarantees in accordance with the recommendations of the Venice Commission and other international bodies, the increase of the independence, impartiality, credibility, and the capability of its staff to effectively respond to petitions/complaints and hence, serve as a bridge between responsibilities of the state and the rights of citizens. In addition, a study visit to a

CoE member state will be organised with the aim to exchange experiences and best practices related to functioning of the European Ombudsman institution. Also, an international round table among a wide variety of CoE member states and non-CoE members states with the view to sharing the best practices in addressing human rights violations by the Ombudsman will be organised.

## **2) The monitoring function of the NPM to prevent and combat ill-treatment**

The Project will concentrate primarily on the capacity building of the NPM members with the view to ensure its main function of monitoring places of detention and other closed- type institutions in an effective manner and untimely prevent and combat torture and ill-treatment.

## **3) Establishment of an independent and effective mechanism for prompt, impartial and effective investigation of torture and ill-treatment**

The Project will provide a range of activities for judges, prosecutors, defence lawyers and representatives of the law enforcement bodies to ensure that the procedural safeguards against torture are applied in an appropriate and effective manner.

The Project will target improvement of legislation/regulations and institutional set-up of investigative bodies and provide training for their staff with the view to ensure an effective and independent examination of complaints of allegations of torture or ill-treatment according to European and other international standards and hence, eliminate impunity.

The Project will work towards the development of a legal mechanism to provide medical examination by independent experts of all persons alleging torture or ill-treatment in line with European and international standards.

## **4) Mediation in criminal matters**

The Project will target mediators to improve the quality of services that they provide and offer them specialised trainings. The Project will support the development of a model training curriculum that will cover important areas of expertise necessary for a mediator in criminal cases and provide trainings for trainers that will subsequently offer corresponding capacity development in their respective training institutions in Kazakhstan.

The Project will provide a forum for discussions for the main stakeholders and exchange of experience with European counterparts through a study visit in order to further advocate for the need to establish an institution responsible for the supervision, monitoring and evaluation of the mediation in Kazakhstan.