



Report Number: ICRR0023247

1. Project Data

Project ID

P143274

Project Name

Justice Sector Insttntl Strengthening

Country

Kazakhstan

Practice Area(Lead)

Governance

L/C/TF Number(s)

IBRD-83610

Closing Date (Original)

31-Dec-2018

Total Project Cost (USD)

14,040,252.06

Bank Approval Date

19-Mar-2014

Closing Date (Actual)

31-Dec-2021

IBRD/IDA (USD)
Grants (USD)

Original Commitment

36,000,000.00

0.00

Revised Commitment

14,040,252.06

0.00

Actual

14,040,252.06

0.00

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2. Project Objectives and Components

a. Objectives

The project development objectives (PDOs) of the project were to: (a) strengthen the institutional capacity of selected agencies for effective implementation of selected laws; and (b) improve the efficiency, transparency of, and access to selected public services in the justice sector. (Loan Agreement, p.5)

For this review, IEG unpacks the PDOs into four (4) objectives as follows:



1. to strengthen the institutional capacity of selected agencies for effective implementation of selected laws;
2. to improve the efficiency of selected services;
3. to improve the transparency of selected services; and
4. to improve access to selected services.

The ICR took the same approach, though with slightly different wording, despite overlapping objectives that lead to difficulties in assigning the project outcomes to these four objectives (as some apply to more than one).

b. Were the project objectives/key associated outcome targets revised during implementation?

Yes

Did the Board approve the revised objectives/key associated outcome targets?

No

c. Will a split evaluation be undertaken?

No

d. Components

A. Strengthening the Implementation of Key Elements of the Legal and Institutional Framework (Estimated: USD11.2 million of which IBRD USD6.7 million/ Actual: USD2.59 million of which IBRD USD1.56 million)

This component, with 3 sub-components, financed consultants' services, training and goods as it sought "to reduce state intrusion into the functioning of Kazakhstan's private sector, enable self-regulation of professional bodies and introduce modern, transparent dispute resolution systems" (PAD, p.8). Specifically, it was intended to

1. strengthen the Ministry of Justice (MoJ) by carrying out regulatory and fiscal impact assessments, and conducting workshops, training, and user surveys, as well as communications and outreach activities. It also aimed to support MoJ to improve legislative drafting policies, processes and capacity.
2. support selected agencies with the drafting of a law on self-regulated professional organizations, organizing drafting workshops, training and focus groups, as well as outreach and communications.

B. Improving the Service Quality and Responsiveness of the MoJ (Estimated: USD11.8 million of which IBRD USD7.1 million/Actual: USD13.29 million of which IBRD USD7.6 million)

Component B - with 5 sub-components - financed consultants' services, training and goods to strengthen MoJ's capacity in a number of areas, including: development of a comprehensive performance monitoring framework; feedback on the quality of legislative drafting (supported under Component A); improving forensic capability and enforcement of judicial decisions; improving the public registration (registry) services



offered by MoJ such as the land registry; improving provision of and access to legal aid; and preparing a strategy to support the reintegration of former offenders, including through employment opportunities.

C. Strengthening Judicial Efficiency and Professionalism (Estimated: USD27.7 million of which IBRD USD16.6 million/ Actual: USD1.41 million of which IBRD USD0.85 million)

The third Component (C) - with 2 sub-components - financed consultants' services, training and goods to support the Supreme Court to improve its operational efficiency. The support included: carrying out of various analyses and diagnostics to identify the impediments that increase the non-adjudicative burden on judges and ways to remove the impediments and increase judges' efficiency; simplifying and streamlining court procedures; strengthening the Supreme Court's institutional capacity to carry out its administrative and management functions, including the capacity to monitor the performance of lower courts. It also sought to enhance the capacity of the Supreme Judicial Council as well as the Institute of Justice, the training arm of the judicial establishment.

D. Project Implementation and Coordination (Estimated: USD5.1 million of which IBRD USD3.07 million/ Actual: USD6.01 million of which IBRD USD3.67 million)

Component D - also with 2 sub-components - funded the provision of technical support by way of contracting an Implementation Support Group (ISG) to support project implementation, including project management, procurement and financial management experts, monitoring and evaluation and change management. It also supported a pilot fellowship/grants program for mid-career professionals from the justice sector.

Contingency (Estimated: USD4.18 million of which IBRD USD2.51 million/Actual: nil)

e. Comments on Project Cost, Financing, Borrower Contribution, and Dates

The project began with an approved IBRD loan amount of USD36 million (60 percent) and a Borrower contribution of USD24 million (40 percent), for a combined total of USD60 million. However, at the time of closing, the IBRD loan stood at USD14.04 million while the Borrower's contribution was USD9.35 million - a combined total of USD23.39 million (or USD36.6 million less than the original estimate). It was restructured 4 times between May 2018 and December 2021 (see below). Two of these restructurings included cancellations of portions of the loan amount - by USD9 million and by a further USD12.7 million - reducing the loan by almost two-thirds (2/3). Although the procurement of information and communications technology (ICT) equipment was originally to be funded from the proceeds of the loan, the Borrower decided to use their own resources instead for the purchase of the ICT equipment.

The project was restructured on four occasions as follows:

1. May 2018: Loan amount was reduced from USD36 million to USD27 million, and the activities and results indicators (RIs) were modified to reflect the reduction in the scale and cost of project financed activities.
2. August 2018: Project closing date was extended by 18 months from December 31, 2018 to June 30, 2020 to enable the Borrower to implement the new, scaled-down activities introduced in the May 2018 restructuring.



3. May 2020: Project closing date was extended by another 18 months from June 30, 2020 to December 31, 2021. Further modifications were made to the results framework to better align results indicators with the PDO. Component were adjusted by changing activities and reallocating funds to accommodate COVID-19 related activities.
4. December 2021: As the project was closing, the undisbursed balance was cancelled, reducing the loan amount by a further USD12.7 million. This was part of a portfolio-wide effort to save the Borrower from paying commitment fees on the undisbursed balance, as well as to free up counterpart funding so it could be reallocated to pandemic-related spending.

In effect, the project, originally planned to be implemented over a period of 4.5 years, was extended to 7.5 years but utilized only 39 percent of the original budget.

Because the project's scope shrank and project commitments decreased through the cancellation of funds, the ICR carried out a split rating. However, as there was no Board-approved change in the PDO, IEG finds that a good case can be made not to apply a split rating and to assess the project based on the revised scope (and PDO indicators) agreed on at the May 2018 and May 2020 restructurings.

3. Relevance of Objectives

Rationale

The clearest statement of the problem to be addressed by the project appeared in paragraph 16 of the Project Appraisal Document (PAD):

*"A recent review of Kazakhstan's justice sector highlights some of the key challenges facing Kazakhstan's justice sector, including: **low public trust in courts, related to concerns over integrity and corruption; slow contract enforcement; limited access to justice for the poor and vulnerable; and over-regulation of the private sector.**"* The PDOs are highly relevant to addressing these challenges.

Annex 2 of the PAD provides the country and sector context, including a description of the Kazak justice sector, its challenges and the reform agenda. It links the project to objective (ii) of the World Bank-supported 2012 Country Partnership Strategy (CPS) for involvement in Kazakhstan, which was **"to promote improved governance in public administration and service delivery (including modernizing the judiciary and civil service."** The PDOs are highly relevant to this objective.

However, the PDOs could have been better formulated and more focused given the level of commitment and depth of the challenges. Annex 2 of the PAD states that the project sought to modernize the legal and institutional framework for justice entities critical to private sector functioning and growth, as well as to ensure access to justice for all, and strengthen the institutional capacity and operational efficiency of the MOJ and the courts. It also sought to improve public sector management and civil rights by upgrading the courts and other key elements of the justice system in line with international good practices and expanding access to women, minorities and juveniles. Despite this tall order, it also claims that the project would contribute to the CPS's first objective (**"to promote diversification, innovation, investment in human capital, and international trade integration for employment generation"**) by strengthening the judicial system and streamlining the role of the state vis-a-vis its citizens and businesses, which would help accelerate the appropriate definition of the state and shift to a more market-oriented and transparent



economy. Finally, it claims that the project would contribute to the World Bank Group's twin objectives of ending extreme poverty and promoting shared prosperity.

Reforming and strengthening the justice sector remains broadly relevant in the context of the Bank's *Kazakhstan Systematic Country Diagnostic* (SCD - April 2018) and *Country Partnership Framework for the Republic of Kazakhstan, 2020-2025* (CPF - November 2019). The former highlighted 'Rule of Law' as a key objective and a prerequisite for an enabling business environment. As the ICR points out, the project is generally aligned with the SCD's strategic pillar on 'Private Sector Development' and its policy priority of "enhancing governance, rule of law, accountability and strengthening public sector capacity." The CPF's Key Focus Area 1, on the other hand, is Promoting Inclusive Growth; Objective 1 under this Key Focus Area is Strengthening the Environment for Private Sector Development. It is accepted wisdom that a strong, efficient and independent justice sector contributes directly to these objectives by instilling confidence to both the corporate sector and the citizens at large, which in turn helps to improve the business environment by providing predictability and stability.

The Bank could have increased the relevance of the PDOs with greater specificity. It would have been preferable, for example, if the PDO said clearly that the project set out to strengthen the MOJ and Supreme Court instead of "selected institutions." Similarly, it would have been better to be clear and specific on which public services in the justice sector were to be made more efficient and transparent rather than to say "selected services." The perception of (presumably low levels of) integrity and (presumably high levels of) corruption that served to undermine citizens' trust in the court system is, at best, addressed indirectly. The second part of the PDO - to improve efficiency and transparency of, as well as access to, selected public services in the justice sector - addresses the perception of slow contract enforcement and limited access for the poor and vulnerable. The project combines elements of court reform (with an emphasis on improving efficiency and transparency) with legislative drafting, law enforcement (presumably focused on the over-regulation of the private sector) and even the re-integration of offenders (which was later dropped). The project set out to do too many things and could have been more precise and narrowly-focused, given that this was the Bank's first intervention in the justice sector in the country.

The ICR retroactively constructs: a ToC (p.9), as there was none in the PAD; and, an updated ToC (p.22) reflecting the drastically reduced scope of the project and focus on the MOJ, the Judiciary (mainly the Supreme Court) and, to some extent, the High Judicial Council, which did not exist at the time of appraisal. The most significant changes were the reduction in the level of ambition in Component B, as well as modifying one sub-component under Component C from 'Strengthen judicial training' to 'Strengthen judge selection and performance' (with a commensurate change in the related RI from 'Improved efficiency of judicial officers' to 'Improved transparency in judge selection launched').

Although the outcome of PDO-A is 'Improved institutional capacity of selected agencies to effectively implement laws and deliver efficient and transparent justice services', the fact is that while the MOJ might play a central role in the drafting of legislation, it clearly cannot and does not implement all laws by itself. Hence, improving the *quality* of the laws (by better legislative drafting) can have little or no impact on the *implementation* of the laws. To be clear, the quality of a law can be judged on its ability to achieve the underlying policy objectives; if a law does not work because it was designed without taking into account the context in which it is to be implemented - such as capacity and political economy - it is not a well-designed law. Improving the quality of the laws can, therefore, have a direct impact on their implementation but there are many other factors involved, not all of which are within the control of the MOJ. Also, while PDO-A talks about "justice services", it is Component B that focuses on justice services (and the outcome PDO-B -



'Improved efficiency of selected justice services' and PDO-C 'Improved transparency of selected justice services' - partially repeats PDO-A - '... [to] deliver efficient and transparent justice services').

Rating

Substantial

4. Achievement of Objectives (Efficacy)

OBJECTIVE 1

Objective

To strengthen the institutional capacity of selected agencies for effective implementation of selected laws.

Rationale

While Objective 1 remained the same, there were changes to the indicators on two occasions during the project's implementation - in May 2018 and May 2020. In view of the low level of disbursements (less than USD4 million disbursed by the time of the first restructuring) and almost negligible level of activity in the period before the first restructuring in May 2018, the project can be assessed based on the revised scope.

The first indicator was the percentage of private sector survey respondents who expressed satisfaction with the implementation of the new Commercial Code, the new Law on Self-Regulatory Organizations and the Administrative Offences Code. The associated target was not achieved, as the Government instead opted to amend existing laws and bring its regulatory framework in line with international standards. This indicator was therefore dropped in the May 2018 restructuring, when as many as 6 PDO indicators were eliminated while 4 new ones were introduced.

The second PDO-level indicator was the percentage of users of project-supported pilot courts expressing satisfaction with the quality of judicial services. The baseline was 27 percent in 2013. Although the ICR claims that the target of 55 percent was exceeded (89 percent achieved), the very same achievement is claimed after the May 2018 restructuring (and rated as High); however, for the period after the May 2020 restructuring up to project closing on December 31, 2021, the result held constant at 89 percent although the target had been increased to 92 percent. The increase from the baseline could not be attributed to the project for the period before the May 2018 restructuring since, overall, project implementation was very slow to negligible, as shown by the low level of disbursements between 2014 - 2017; a common thread running through the ICR that also came out during interviews was that the ISG contractor (Price Waterhouse Coopers) did little to implement project activities during the first 3-4 years after the project became effective. At the second restructuring, the team wrote that:

"Project implementation has advanced and has led to some encouraging results under the leadership and support of the Minister of Justice, Mr. Marat Beketayev, and the new President of the Supreme Court, Hon. Mr. Zhakip Assanov. Although the Project has faced several delays since effectiveness, recent developments



suggest a much greater potential to achieve impact in many areas, although on a smaller scale than originally envisioned."

The fact that the actual result never exceeded 89 percent (despite increasing the target marginally to 92 percent) suggests that user satisfaction remained steady and did not show any improvement during the period of project implementation.

One additional indicator was introduced after the May 2018 restructuring: *Availability of new tools and mechanisms for public participation in lawmaking, enshrined in draft law and subordinate legal acts*. This was a simple Yes/No indicator (i.e. new tools and mechanisms either exist or they do not) where the baseline was 'No' as at December 31, 2014 and the result was achieved ("Yes") by the time the May 2020 restructuring was approved.

A third indicator was introduced after the May 2020 restructuring: *Formalization of the High Judicial Council's (HJC) institutional transformation policy by ensuring the use of transparent mechanisms, including in automated mode, for selection of judges*. This was also a Yes/No indicator. The HJC did not exist at the time of appraisal; it was established after the original project was designed/approved and with some support from the project, so the "formalization" of its 'institutional transformation policy' can be credited to the Bank's intervention. This mechanism was created to handle the selection and appointment of judges using, among others, an automated system for judge selection that would begin to address the issues of integrity and corruption raised in the original problem statement.

The project was restructured several times to adapt to changes in key government personnel and in demand (or requests). New activities were introduced as necessary, but nothing indicates that the scope changed (even though the pathways taken towards improved institutional capacity may have shifted). For instance, the Government of Kazakhstan adopted a seven-pillar program supported through business process reviews and pilot testing even though this was not included in the original project design. Although the Commercial Code, the Law on Self-Regulated Professional Organizations and others that were intended to be either drafted or implemented with the support of the project were never pursued, the ICR attributes the drafting, adoption and implementation of seven other laws to the project (ICR, p.25). The ICR also claims the project is responsible for "substantial amendments to the legislation on [intellectual property] IP rights and standards, key to expanding legal protections for innovations and contributing an improved, more attractive business environment for domestic and foreign investors" (ICR, p.27).

Based on the indicators in place at closing and other evidence presented, particularly in light of the scaled-down activities and the fact that less than 25 percent of the originally allocated loan amount was utilized, IEG rates achievement as **Modest**.

Rating
Modest

OBJECTIVE 2

Objective

To improve the efficiency of selected services.



Rationale

Objective 2 aimed at improving efficiency and streamlining of selected justice sector services. Project support focused primarily on helping the Supreme Court to implement its recently-adopted seven-pillar program, which was not originally included in the project but was introduced at the time of the May 2018 restructuring. This objective had two outcome indicators at the outset:

- *The civil enforcement cases resolved by the MOJ by December 31 each year as a percentage of the total value of such cases; and*
- *Aggregate case disposal ratio for civil cases in project-supported pilot courts.*

Indicator 1 was dropped at the time of the May 2018 restructuring as nothing had been implemented and the system for private enforcement of judicial acts was reformed, reshaping the framework for enforcement services in line with international standards. The project supported the transfer of non-litigious cases from the Supreme Court to private notaries, thereby decreasing the backlog and future workload of the courts while also streamlining the system for the delivery of justice services. The overall efficiency gains in court processing of cases are potentially significant.

In the case of Indicator 2, the measurement of the indicator refers to the percentage increase over the 2013 baseline of the "aggregate case disposal ratio of civil cases for project-financed pilot courts." In the explanatory note, the indicator measures "the efficiency of case disposal for civil cases in the high-volume, low-disposal-rate courts (for rolling out such efficiency-enhancing technical support across Kazakhstan's court system)." The 2013 baseline was zero and the end-of-project target was 50 percent (of the total number of cases in project-supported pilot courts). The indicator could not be measured and the ICR instead substituted an intermediate results indicator (IRI) on the average number of days for disposal of civil cases (from filing to final decision) in pilot courts. The ICR claims the number of days was cut by 5 times, with 53.6 percent resolved within 3 to 30 days, 3.6 percent above the original target (p.28). This is a reasonable proxy for the original PDO indicator.

One additional indicator was added after the May 2018 restructuring and another at the May 2020 restructuring. These were, respectively:

- *Increased number of licensed forensic experts* (with a baseline of zero (0) and a target of 250). 655 forensic experts had been licensed over 2 years (between May 2018 and May 2020), and the target of 250 was surpassed and increased to 750 when the project was again restructured in May 2020. No additional forensic experts were licensed by project closing, leaving the end-of-project target only partially achieved with a total of 655 (or 87 percent of the target).
- *Number of forensic laboratories with international and domestic certification* (with a baseline of zero (0) and a target of 3). Three such laboratories had been licensed (ICR, p.48-9).

Both of these indicators measure outputs and not outcomes.

While the ICR shows how the Bank was proactive in restructuring the project to include new activities/indicators, adapting to changes in circumstances, as well as making it responsive to client demand/needs, this proactivity did not always result in useful indicators being developed. The recommended ICRR rating is **Modest**.



Rating

Modest

OBJECTIVE 3

Objective

To improve the transparency of selected justice services.

Rationale

This objective aimed at improving transparency in the services available to citizens under the justice sector. The original results framework included only one PDO indicator for this objective/outcome: *Publication on the respective websites of the MOJ, the Supreme Court and project-supported pilot courts of data on judgements enforced, registrations processed, inspections and clearance ratio of cases*. The target was a simple Yes/No. However, the indicator was changed to limit the publication to just the Supreme Court in light of the fact that the responsibility for the collection and publication of non-confidential data on justice sector service delivery was transferred from the MOJ to the Supreme Court. Only the Supreme Court, therefore, published data on its website and the indicator was modified when the project was restructured in May 2018 to reflect this reality as follows: *Publication on the Supreme Court website of main outcomes of regular monitoring of court performance reports on implementation of Supreme Court recommendations*. The target was again a simple Yes/No indicator.

By adjusting the coverage of the indicator to reflect the reality on the ground, the ICR concludes that the target was achieved and therefore gives a rating of **High**. However, the revised target was actually less ambitious, and the ICR gives no indication of quality, adequacy, utilization or citizens' satisfaction, making it less persuasive than suggested. In other words, the ICR presents evidence that, as a result of the project's support, the Supreme Court publishes the "main outcomes of regular monitoring of court performance reports" but is silent on the type and quality of data published, whether it is presented in a user-friendly format, how many people have accessed it, and whether those who have accessed the reports on the Supreme Court website found them useful.

The rating is determined to be **Modest**.

Rating

Modest

OBJECTIVE 4

Objective

To improve access to selected justice services.

Rationale

Objective 4 focused on improving access to selected justice-related public services for citizens of Kazakhstan. Activities under the relevant Component in the PAD included improving the registration services under the MOJ, including registration of real property, improving access to legal aid services, and supporting the re-integration of former offenders. According to the updated ToC, the re-integration of offenders was



dropped; improving intellectual property standards was added; and *access* to legal aid was replaced by *awareness* of legal aid, which redefines the original problem from a lack of access to lack of awareness (and implies that there were no obstacles to access - just people don't know how to go about it).

The original PDO indicator was: *Growth in the number of eligible persons provided with legal aid*. There was also a sub-indicator pertaining to the *number of eligible female beneficiaries provided with free legal aid*. Neither of these targets for was achieved.

The May 2018 restructuring saw the introduction of a new indicator: *Availability of new tools that improve the awareness of eligible vulnerable groups on obtaining free legal aid*. The indicator is a simple Yes/No, with a lack of clarity on the specific tools that were to be made available. Project activities in support of this objective after 2018, therefore, included the drafting of amendments to the Law on Legal Assistance and Advocacy, as well as the creation of appropriate tools and information systems that could enable greater awareness of legal aid. The Law was adopted only in June 2021, 6 months before the project closed, so that implementation had not yet commenced and it was too early to judge the extent to which awareness had increased as a result.

The indicators used for this objective are not outcome indicators. Although the ICR provides some evidence of the groundwork being laid for increasing awareness of legal aid (bearing in mind the dilution of the objective from improved access to improved awareness), it is too early to determine whether these tools had worked. Also, while legal aid is important, there were other justice-related services (other than an IRI on copyright holders) where the ICR does not provide evidence of achievement. Consequently, the proposed rating is **Negligible**.

Rating
Negligible

OVERALL EFFICACY

Rationale

Generally, an Efficacy rating of High or Substantial is warranted when **all three** of the following are true:

1. there is sufficient evidence of outcomes/impact;
2. there is evidence of sufficient outcomes/impact; and
3. the observed outcomes/impact can be attributed to the project interventions/activities.

In this case, there is not sufficient evidence that the project had significant outcomes/impact; nor is there evidence of outcomes/impact that could be sufficient to achieve the project's objectives. The ICR presents evidence of what could best be described as small wins **in the context of the drastically scaled down project**. After 4 years with a low rate of disbursement and little or no activity, the team that inherited the project in 2017/18 restructured it on four occasions to adapt to and/or accommodate changes in focus consequent upon changes of personnel on the Borrower's part (which, by itself, is not a legitimate reason for change), and significantly, changes to the implementation arrangements. These changes kept the project going and amounted to a few random activities that allowed the Government to achieve a number of relatively



small wins between 2018 and the time the project closed in December 2021. But they did not amount to a coherent set of activities to achieve the already flawed PDOs.

There was a marked improvement in disbursements and implementation progress after the first restructuring in May 2018, which also signaled a scaling down of the project and a reduction of the loan amount. The evidence presented in the ICR suggests that the achievements supported by the project were not transformative. When the COVID-19 pandemic began, project implementation slowed down and the Borrower requested the cancellation of the undisbursed/uncommitted balance, equivalent to US\$12.7 million, in October 2021. Efficacy, therefore, has to be assessed in the context of the considerable reduction in ambition and scope of the project. It is rated as being **Modest**.

Overall Efficacy Rating
Modest

Primary Reason
Insufficient evidence

5. Efficiency

For a development project, the central question is whether the expenditure incurred in achieving project objectives were reasonable in comparison with both the benefits and recognized norms.

The PAD did not provide any economic and/or financial analysis. It made a few general claims based on "international experience" and listed a number of potential direct benefits of justice sector reform while admitting that "not all of these benefits are readily quantifiable": reduced time for case disposal, direct benefits for businesses and households from reduced cost of litigation, speedier resolution of disputes, reduced cost of doing business, reduced administrative corruption and improved enforcement and registration, leading to reduced regulatory and administrative burdens on businesses and individuals. It cited a 2012 estimate of the "stock of non-executed judicial decisions" at a value of KZT 1,997 billion (equivalent to approximately USD13.2 billion) but it is not clear where this estimate came from or how it was calculated. Other benefits, described as being "more diffuse", would accrue but not all would be realized within the project period.

Notwithstanding the challenges typically associated with public or justice sector reform projects, the ICR attempted to carry out an *ex-post* cost-benefit analysis that estimated total economic inflows (benefits) of US\$180.08 million and outflows (costs) of US\$38.39 million, US\$23.39 million of which consisted of loan proceeds and the Borrower's counterpart contribution, plus an estimated US\$15 million that was used to procure IT equipment that was originally to be procured under the project. The analysis calculated an internal rate of return (IRR) of 13.43 percent and a net present value (NPV) of US\$77.34 million. The overall benefit-cost ratio is 3.72 for the life of the project.

The methodology and assumptions used in calculating the IRR and NPV are explained in Annex 4 of the ICR. At the outset, it concedes that the calculations rely on "basic data on justice services" published by the MOJ, Supreme Court, Judicial Academy and High Judicial Council with project support. Although relatively little that was eventually included among the restructured project activities focused explicitly on the "enabling business environment" argument originally used in the PAD as the rationale for the project, the ICR (p.64) stated that "The main indirect benefits are expected to be generated through positive multiplier effects on the economy and an improved investment environment."



The ICR assigned an efficiency rating of substantial, concluding that "Overall, benefits include, but are not limited to, cost savings for both the judicial system and the public that derive from the transition to online and paperless operation of courts (including during the pandemic), enforcement of decisions and registration of rights through private bailiff and notary systems, decreased appeals due to improving the quality of court decisions, savings from reduced caseload and associated cost, gains from improved forensic services, etc."

However, efficiency in this operation was compromised especially during the first 4 years of implementation: the project design was overly-ambitious and over-allocated funding to the multiple activities envisaged; there were significant delays in implementation that occurred during the first 3-4 years of the project, during which time the only funds disbursed were to pay for the Implementation Support Group (ISG) contractor - wasted time and financial resources with little to show for it (i.e. no value for money). The decision to outsource the project management (ISG) did not represent least-cost achievement of objectives and this situation was only remedied when the UNDP was sub-contracted as a workaround to help with the implementation of four specific activities at a total cost of USD2.2 million while still retaining the services of the ISG as the contract could not be cancelled without parliamentary approval.

The project's reduced scope and expenditure may have represented good value and implied a level of efficiency (compared with if the scope had been narrowed without any commensurate reduction in expenditure) but some of the benefits mentioned are not convincing as they would be difficult to substantiate. For example, the ICR argues that "...the average number of days for disposal (from filing to final decision) of civil (including tax and family) cases were reduced from a baseline of 420 to 60 days, resulting in significant economic benefits. These improvements expedited processing of backlogs providing opportunity to reinvest amounts tied up in litigation in labor disputes, disputes arising from marriage and family relations, claims for damages, claims related to environmental protection, disputes related to intellectual property, etc." (Annex 4, p.65). While reducing the average number of days taken to dispose of cases before the courts does point to improved speed, this does not automatically translate into efficiency gains; there could be quicker but less satisfactory decisions or resolutions of disputes, and more appeals. Moreover, to suggest that the time freed up would enable the reinvestment of savings in the full range of cases on the courts' docket is questionable in the absence of a breakdown/analysis of all matters pending before the courts.

Another example would be the development of skills and training of judges and judicial staff under the project. The project supported knowledge and skills gap analysis of judges, judge trainees and justice staff for the purpose of improving quality of decisions and court performance. A large number of justice officials (7,718) benefited from trainings, almost half of whom were women. Although it is well-acknowledged that better training and knowledge can improve productivity and performance, it is yet to be demonstrated that the trainings supported under this operation were of the type and intensity that would produce the benefits attributed to them.

Because of these factors, IEG rates efficiency as **Modest**.

Efficiency Rating

Modest

- a. If available, enter the Economic Rate of Return (ERR) and/or Financial Rate of Return (FRR) at appraisal and the re-estimated value at evaluation:



	Rate Available?	Point value (%)	*Coverage/Scope (%)
Appraisal		0	0 <input type="checkbox"/> Not Applicable
ICR Estimate	✓	3.72	0 <input checked="" type="checkbox"/> Not Applicable

* Refers to percent of total project cost for which ERR/FRR was calculated.

6. Outcome

It is difficult to determine the overall outcome of a project if the objectives were not well-defined at the outset. The PDO should say what changes in behaviors, attitudes, skills or access are being engendered by the intervention. This particular PDO could have been more specific in targeting particular agencies, laws and public services. The word 'selected' is indeterminate: it casts the net too wide and makes it possible to include any agencies, laws or public services. It also makes it almost impossible to fault the outcome because "any outcome is a good outcome." Focusing on particular agencies (eg. the MOJ or the Supreme Court) or functions (eg. land registration) would have been far better. In fact, it is what was done from 2018 to 2021, but without amending the PDO.

The first 3-4 years of implementation saw very little - if any - progress towards the achievement of the outcome. The various Level 2 restructurings carried out between 2018 and 2021 effectively downsized the project by eliminating redundant activities while introducing new but less ambitious ones, adjusting the Results Framework by introducing less demanding RIs, extending the closing date to enable the newly-introduced activities to be implemented, and cancelling almost two-thirds of the loan amount. For a project that is restructured to this extent without changing the PDO, there should be some explanation of how the same PDO could be achieved with more time and less resources. By repeatedly lowering the bar and adjusting the indicators, the project became a responsive, "just-in-time" technical assistance project with shortcomings in the overall outcome.

With a Substantial rating on Relevance, a Modest rating for Efficacy, and a Modest rating on Efficiency, the recommended overall Outcome rating is, therefore, **Moderately Unsatisfactory**.

a. Outcome Rating

Moderately Unsatisfactory

7. Risk to Development Outcome

The original project design was unnecessarily broad and complex. The scaled down project was adjusted to support the Borrower in achieving some modest results. While some of these results - such as revised/updated legislation, the administrative courts and the use of private bailiffs and notaries, as well as



improvements in operational efficiency caused by the introduction or increased use of ICT (which were not procured under the project and therefore cannot be attributed to the project) - were in place at the time the project closed, they are at best intermediate outcomes and it would be premature to describe them as "institutionalized." Whether they become institutionalized or not will depend on a number of factors, notably continued political support over the long term and their full embrace and ownership by key stakeholders and citizens.

The ICR states that other achievements such as participatory approaches to law-making and new practices for the selection and appointment of judges will require continued political support and commitment. It is one thing to introduce these reforms, quite another for them to be allowed to work. Given the historical, cultural and socio-political context of Kazakhstan, continued political support should not be taken for granted. Continuing commitment and support for justice sector reforms, including adequate allocations from the national budget to meet recurrent and additional capital expenditures, are also required to ensure maintenance and upgrades to installed systems, continuous enhancements as technology evolves, as well as continued investment in training and capacity building to upgrade skills and improve performance.

Much of the original justification for the project was about increasing confidence in the judiciary and the courts among citizens and businesses alike. Adoption and ownership of justice sector reforms by those the system is meant to serve - the citizens of Kazakhstan and investors/businesses, both domestic and foreign - will be the ultimate test of whether the results achieved by this operation will be sustained. The failure to properly engage stakeholders at the design stage (Stakeholder Risk rated High) could signal a lack of ownership and commitment to the reforms initiated during the project.

Based on these considerations, Stakeholder, Governance and Capacity risks remain high and the overall risk to development outcome is **Significant**.

8. Assessment of Bank Performance

a. Quality-at-Entry

Although the ICR does a good job of describing the shortcomings in the preparation stage of the project, the assessment of quality-at-entry must take account of the operational, sector and country context in weighing the relative importance of each of the criteria mentioned below as they affect outcomes.

Strategic relevance and approach: Although the project had strategic relevance in the context of Kazakhstan's long-term vision embodied in its overall development strategy, the 2050 Strategy, the associated justice sector roadmap and the Bank's CPS at the time, the approach taken was too broad and should have focused on one or a few of the multiple objectives presented in Figure 1 (p.36) of the PAD. Because the PDO lacked specificity, the project design was overly-ambitious, attempting to address multiple aspects of the issue of rule of law and reform of the justice sector.

Technical, financial and economic aspects: The original PAD provided no technical, financial or economic analysis of the project or its potential benefits. Indeed, as pointed out above, the ICR team attempted to carry out an ex-post cost-benefit analysis and to calculate the economic rate of return. Benefits were, in a sense, assumed based on unproven assertions ("The project will generate both economic and financial benefits ... International experience in reforming the justice sector points to



several ways in which the authorities can claim direct benefits from the project: direct benefits for Government from improved court efficiency include reduced time for case disposal, direct benefits for businesses and households from reduced costs of litigation, speedier resolution of disputes, reduced costs of doing business and reduced administrative corruption; and improved enforcement and registration leading to reduced regulatory and administrative burdens on businesses and individuals. While not all of these benefits are readily quantifiable, efficient enforcement of court decisions alone, for example, could generate significant economic and financial benefits." p.13).

Poverty, gender and social development aspects: There were no social safeguards issues but the PAD mentioned that the MOJ was to launch a Poverty and Social Impact Analysis (PSIA) to inform the design of sector reforms to improve targeting of benefits (e.g. legal aid) to the socially and economically vulnerable. No information has been provided on whether this PSIA was ever done and, if so, how it was used to improve targeting, especially in light of the dilution of the sub-objective (reflected in the indicator) from improving access to building awareness. The PAD also mentioned "there is a special focus on gender and access to project benefits for women" although there was relatively little other than training that focused on gender.

Implementation arrangements: Although the PAD clearly states that the MOJ will be the Implementing Agency, with a designated "structural unit" as the Project Implementation Unit, it also says that MOJ will contract a firm (the ISG) to assist with the implementation and management of the project. This arrangement was expected to facilitate skills transfer between the MOJ PIU and the ISG consultants but should immediately have raised a red flag. In addition, while it is true that the justice sector spans the judicial, executive and legislative branches of government, by designating the MOJ as the Implementing Agency it put the Supreme Court and Chief Justice in a subordinate position to the MOJ, an executive arm of the state. This had an impact on project implementation as Chief Justices are not accountable to Ministers of Justice and should not be expected to approach the MOJ with project-related requests.

Risk assessment: The project was originally designed as a multi-agency project and, therefore, overall implementation risk was correctly rated High given the weak capacity of the MOJ, the Supreme Court and other arms of the government, as well as the political economy issues affecting Kazakhstan. The accuracy of this assessment was substantiated during implementation.

Bank inputs and processes: This was the Bank's first foray into the justice sector of Kazakhstan, and it took approximately 29 months between the initial AIS (in October 2012) and Board approval (in March 2014). There was ample time in which to do more thorough preparation. However, there is no evidence that adequate diagnostic and analytical work, needs/capacity assessments or the type of stakeholder consultations usually associated with the development/design of a Bank operation in a new environment were ever carried out. The fact that there were many changes to the planned activities in the original design (e.g. legislation to be drafted, procurement of ICT equipment, etc.) was indicative of either inadequate analysis and consultation, or the result of the 3-4 years of inactivity, or both.

Quality-at-Entry Rating
Unsatisfactory

b. Quality of supervision



Despite there being 7 ISRs on the project between June 2014 and September 2017, Bank supervision between approval and the first restructuring in May 2018 appears to have been minimal to non-existent. Implementation certainly picked up after the May 2018 restructuring. Consideration should have been given to changing the PDO at the time of that first restructuring to make it more specific, targeting individual agencies/organizations such as the MOJ, Supreme Court and even the High Judicial Council, and clarifying the specific changes being sought through the intervention. There is no reason why the extension of the closing date could not have been done at the same time (the extension was done within 4 months after the first restructuring). The fact that as many as 4 restructurings were approved within a relatively short timeframe, on two occasions canceling large portions of the loan, extending the closing date twice, making changes to the activities and corresponding adjustments to the indicators and the Results Framework, gives the impression of an almost reactive, haphazard approach to supervision. As mentioned earlier, a project that is restructured to this extent without changing the PDO should, ideally, have an explanation of how the same PDO could be achieved with more time and less resources. The approach taken converted the project into a type of "responsive" fund, adapting to changes in the Borrower's needs and priorities. It may have "salvaged" the project and kept it going but it became a collection of activities with modest goals not necessarily underpinned by a coherent and strategic approach to addressing a set of binding development constraints.

Quality of Supervision Rating

Moderately Unsatisfactory

Overall Bank Performance Rating

Moderately Unsatisfactory

9. M&E Design, Implementation, & Utilization

a. M&E Design

The PAD included a Results Framework with descriptions/explanations of the outcome and intermediate indicators, as well as the data sources. However, the initial project design did not contain a detailed M&E plan for tracking indicators. Responsibility for M&E was located with both the PIU in the MOJ and in the ISG. In fact, MOJ was given overall responsibility for M&E supported by the ISG. MOJ was "to implement robust M&E arrangements to collect and report on project results;" elsewhere, their role was described as "to consolidate results information provided by the participating agencies." Meanwhile, progress reports were to be prepared by the ISG and approved by MOJ. This was, at best, a confusing arrangement and ideally there should be a single executing agency with responsibility for all aspects of project management, including the M&E. The PAD also suggested that "Results monitoring and reporting, as well as project management, will be aligned as much as possible with existing Government structures and processes for inter-agency coordination and cooperation"

The May 2018 and other restructurings saw a shift from outcome to output-level indicators, partly due to data collection constraints arising from the ambitious nature of the higher-level indicators.



b. M&E Implementation

As indicated above, some of the original indicators were dropped during restructuring because it proved difficult to collect the data and measure progress. For example, one of the original PDO indicators on the *Percent of Private sector survey respondents satisfied with the implementation of the new Commercial Code, the new Law on Self-Regulatory Organizations and the Administrative Offences Code* was dropped because the laws were no longer in force and no private sector surveys were ever done.

The ICR describes the quality of reporting as "adequate" as semi-annual reports were received after the May 2018 restructuring. It does not appear that there was regular reporting by the ISG or MOJ during the first 4 years of implementation.

c. M&E Utilization

It is not clear how effectively the M&E was utilized by the Borrower to recalibrate activities or make course corrections during implementation. The shift to output indicators involved, in some cases, simple YES/NO choices, indicating whether a result was achieved or not. This did not require a high level of sophistication in M&E utilization.

M&E Quality Rating

Modest

10. Other Issues

a. Safeguards

There were no Environmental or Social safeguards issues.

b. Fiduciary Compliance

There were no fiduciary issues reported.

c. Unintended impacts (Positive or Negative)

No unintended impacts were reported.

d. Other

N/A



11. Ratings

Ratings	ICR	IEG	Reason for Disagreements/Comment
Outcome	Moderately Satisfactory	Moderately Unsatisfactory	Although the ambition of the project was scaled back, the objectives remained the same. In light of the lengthy period of inactivity during the first 4 years of the project, the scaling down of the components and activities, the watering down of indicators from outcome to output (Yes/No) measures, and the significant cancellations of the loan amount - including one cancellation during the closing month of the project - it is difficult to see how the project could have achieved its intended outcomes.
Bank Performance	Moderately Unsatisfactory	Moderately Unsatisfactory	
Quality of M&E	Modest	Modest	
Quality of ICR	---	Substantial	

12. Lessons

Lessons from the ICR:

1. Effective oversight and supervision by the Borrower (Government) are important, even if day-to-day project management is outsourced to an external partner. The decision to contract out the project implementation to a private firm was intended to address capacity gaps and insulate the procurement process from potential corruption. However, it appears that the contractor lacked the experience and capacity to implement the project, resulting in it becoming a non-performing project during the first 3-4 years of implementation. The downside of engaging a private sector contractor was also that no project management capacity was built up in the responsible government agencies or units for possible future interventions (notwithstanding the PAD's claim that it would facilitate skills transfer). Later, the introduction of UNDP as a service provider had the same effect. If the Borrower had a more direct role in project management - whether by assigning government officials to a dedicated PIU as originally envisaged or through embedding the responsibility for project management/ implementation to a specific government agency - implementation progress could have been much smoother and faster, and some residual capacity might have been left in the different branches of government.



2. Bank support to the justice sector requires sufficient diagnostic and analytical work, including political economy and/or stakeholder analysis to identify potential winners and losers, and to design a path forward to success. This is particularly important when the Bank makes an initial investment in the sector. This type of analysis could have helped the team to gain a deeper understanding of the issues affecting the justice sector and, in particular, the sensitivities of different stakeholders, and may have resulted in a better, less ambitious but more realistic project design.

3. Judicial independence is a means to ensuring impartiality of decisions. Organizational independence of the judiciary does not, in itself, guarantee impartiality, and there are examples of well-functioning judicial systems where the MOJ acts as the court administrator. When the judiciary does not have the capacity to implement development projects and available alternatives are considered – including the executive branch – the arrangements need to be exhaustively discussed and agreed upon between the parties.

13. Assessment Recommended?

No

14. Comments on Quality of ICR

Despite the shortcomings in both the design and implementation of the project, the ICR team did a commendable job in marshalling whatever evidence was available to prepare a reasonably good quality ICR. The *ex-post* attempt at a cost benefit analysis, calculating the IRR and net present value, as well as developing a Theory of Change, were all noteworthy aspects of the ICR for which the team must be congratulated.

While the ICR's ratings are reasonable, it could have provided more evidence to explain the project's relatively modest achievements in the face of four restructurings, two extensions of the closing date, and two cancellations of significant portions of the loan amount.

a. Quality of ICR Rating

Substantial

