A UNDP project to strengthen Kazakhstan's parliamentary democracy

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MEMORANDUM OF UNDERSTANDING
PARLIAMENT OF THE REPUBLIC OF KAZAKHSTAN
LEGISLATIVE DRAFTING CENTER

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This Memorandum of Understanding (MOU) finalizes the agreement reached between the Majilis and Senate of the Parliament of the Republic of Kazakhstan regarding the purpose, organization, staffing, functions, training, and assistance of the Legislative Drafting Center. The MOU replaces the November 4, 1998 joint proposal submitted by American Bar Association/Central and East European Law Initiative (ABA/CEELI) and United Nations Development Programme (UNDP). This MOU will be used by Parliament in addition to ABA/CEELI and UNDP to assist Parliament in providing technical (equipment, training, and reference materials) and financial assistance (attract international community funding) for the Center.

I. Purpose of Drafting Center

The Republic of Kazakhstan has been independent only since 1991. The current Parliament was elected in 1995 and has had to invent its own working methods as it goes along. Due to the newness of Parliament and its inexperience in the legislative sphere of activity, it has been difficult on the young Parliament to draft effective statutes.

In order to balance these factors and to provide interaction between Parliament and government, Parliament needs effective mechanisms to strengthen its internal operations. Mechanisms such as information technology and the professional drafting of legislation will allow Parliament to achieve its objectives and promote sustainable human development.

Legislation must be transparent, reliable and easily-understood. Inaccurate and inconsistent drafting may produce bad laws or even invalidate a law entirely. It is essential to parliamentarians, administrators, courts, and to the public that bills and laws be written in a clear, correct, and unambiguous style. One method of increasing reliability and comprehension is to make drafting more consistent. This can be achieved through the formation of a central, parliamentary drafting Center. Because each bill and amendment initiated by Parliament passes through the same Center, there is uniformity of drafting. Definitions are clearer, structures are more uniform, and the language is easier to understand. Legislation and amendments are drafted in clear language that allows parliamentarians to achieve their legislative goals. In addition, the parliamentary drafting staff is aware of whether the proposed legislation or amendment conflicts with the constitution or existing laws.

The primary purpose and objective of the Legislative Drafting Center is to strengthen the Parliament’s capacity for initiating and drafting legislation. The Legislative Drafting Center will focus on increasing the quality and uniformity of draft legislation. Through the creation of a Legislative Drafting Center, a chief drafter and a professional staff of well-trained, non-partisan, legal experts will draft legislation for the Chambers.
II. Organization of the Legislative Drafting Center

The Legislative Drafting Center is established, on the basis of this MOU, as a separate office within the Parliament, accountable directly to the Chairmen of the Senate and Majilis or their delegates. Both Chambers will take whatever procedural steps necessary to legally establish the Center. Both Chambers of the Parliament will contribute equally to the financial, staffing, and technical needs of the Center.

The Legislative Drafting Center will employ a non-partisan staff consisting of a chief drafter, assistant drafters, and an administrative director. The Center will be separate from the Information and Research Center. The Legislative Drafting Center will be strictly dedicated to drafting.

III. Staff Structure

Initially, the Legislative Drafting Center will consist of a non-partisan staff composed of a chief drafter, four assistant drafters, and an administrative director and will serve both Chambers. The Senate and the Majilis will provide the staff for the Center. The staff of the Center will be considered civil servants of the offices of the Parliament. As staff is trained in drafting legislation, additional staff will then be added as needed.

Chief Drafter

The Chief Drafter will be appointed and agreed to by the Chairmen of both Chambers based on the individual’s legal competence, administrative abilities, and integrity. The Chief Drafter will be a lawyer with significant legislative drafting experience and research skills.

The Chief Drafter will ensure equal access to the drafting services of the Center to members of both Chambers. As directed by the Chairmen of both Chambers, the Chief Drafter will develop a work plan and prioritize requests of deputies for draft legislation and amendments. In addition, the Chief Drafter will be responsible for the development of a drafting manual.

The Chief Drafter will be responsible for the technical skill development of the assistant drafters. The Chief Drafter will make assignments to the assistant drafters based on their experience and drafting abilities. The Chief Drafter will have direct oversight of the assistant drafters’ work and will be required to approve the drafts for style, drafting uniformity, and legality. The Chief Drafter will ensure that the staff of the Center remains nonpartisan and free from inappropriate political influences or abrupt shifts in direction resulting from changes in personnel or Parliament.

Assistant Drafters

Assistant Drafters will be appointed and approved by the Chief Drafter. Assistant Drafters will be lawyers and nominated based on their legal competence, drafting abilities and research skills. Assistant Drafters will have at least one year of drafting experience. Assistant Drafters will be responsible for researching issues, the laws of Kazakhstan and other jurisdictions, drafting legislation and amendments, consulting with deputies on drafts, and consulting with the Chief Drafter.
Administrative Director

The Administrative Director will be appointed and agreed to by the Chairmen of both Chambers based on the individual's administrative abilities, integrity, and managerial skills. The Administrative Director will be responsible for the administrative needs of the Center. The Administrative Director will act as liaison to the Parliament generally and the international community.

The Administrative Director will be responsible for all personnel matters, assessing the equipment needs of the Center, developing office procedures on personnel matters, and assisting ABA/CEELI and UNDP in securing assistance from international providers. The Director will not be responsible for or the oversight of the drafting of legislation and amendments.

IV. Staff Responsibilities

The Chief Drafter and the assistant drafters will perform the following services:

1. Draft bills and amendments according to the legislative work plan approved by both Chairmen of the Chambers.

2. Research the current law to determine whether conflicts exist between the draft law or amendments and the existing law.

3. Consult with the deputy on how the proposed law or amendment should be drafted.

4. Proofread the draft laws and amendments.

5. Develop a legislative drafting manual and procedures for the Center.

6. Develop a codification system for laws.

The staff of the Center will not provide legal opinions or offer positions on bills or amendments. However, the staff may advise a deputy on drafting techniques and how to improve the bill's or amendment's chances of enactment.

V. Procedures and Standards

The following procedures will be employed:

1. Deputies submit a request in writing for a draft law or amendment to the Center. Draft laws or amendments consistent with the legislative work plan, as approved by the Chairmen of both Chambers, will be considered high priority over new drafts.

2. The Center assigns an identification number to the request which allows the Center to track its status.
3. The Chief Drafter assigns the request to an assistant drafter.

4. The assigned drafter schedules a meeting with the deputy submitting the request to discuss the topic of the bill or the amendment, the existing law, how best to accomplish the deputy’s objective, how the bill or amendment will be drafted, and the priority for drafting the bill or the amendment.

5. The assigned drafter researches and drafts the bill or amendment.

6. Once the bill or amendment is drafted, the assigned drafter again schedules a meeting with the deputy requesting the draft to discuss the completed bill. The assigned drafter reviews the completed draft with the deputy to ensure that the draft satisfies the request.

Throughout the entire drafting process, any written information or verbal communication received on the bills and amendments prepared will be considered to be confidential.

VI. Training

ABA/CEELI and UNDP are committed to assisting Parliament and the Center to develop the skills and technical abilities of the Center staff. The initial training of the Center staff will be conducted in Kazakhstan. This training will be accomplished by locating a legislative legal expert within the Center to conduct one-on-one training with the drafters. In addition, a legislative legal specialist will also conduct workshops on a short-term basis with the drafters. The training by these experts will include the following: introduction to drafting techniques; development of policies for managing a drafting office; development of a drafting manual; and an introduction to the codification of laws.

Training will also include coordination with other assistance providers for in-country legislative drafting conferences, European parliament experts, and study trips abroad for short-term, training in parliamentary settings or education programs.

VII. Inputs from Parliament

The Parliament’s contributions to the Center will include the following: staff; staff salaries, office space, telephone and fax lines; equipment such as existing staff computers, telephones, and furniture, staff time for training programs; and arrangements for visas for foreign consultants.

VIII. Technical Assistance by International Organizations

ABA/CEELI and UNDP will work together with Parliament to encourage other international organizations and embassies to provide support for the Center. ABA/CEELI and UNDP will work with the international community to provide financial support to the Center for consultants, training in the forms of conferences, seminars, and study trips, technical drafting and codification experts, equipment, and reference materials.
IX. **Evaluation**

The Legislative Drafting Center will be evaluated after six months of operation. ABA/CEELI and UNDP will assist the Center with the preparation of an evaluation to report to the Chairmen of both Chambers regarding the effectiveness of the Center, the status of training, and a timeline for termination of the international community’s resources.

Signed this __________ day of ______________, 1999.

M. Ospanov  
Chairman of the Majilis  
Parliament of the Republic of Kazakhstan

O. Baygeldi  
Chairman of the Senate  
Parliament of the Republic of Kazakhstan

M. Raiev  
Chief of the Senate Staff

M. Kosimov  
Chief of the Majilis Staff