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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

in co-operation with

**THE CONSTITUTIONAL COUNCIL OF KAZAKHSTAN  
GIZ  
AND WITH THE FUNDING BY  
THE EU WITHIN THE FRAMEWORK OF THE JOINT PROGRAMME “EU-CENTRAL ASIA  
RULE OF LAW INITIATIVE”  
AND THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN**

**“SAFEGUARDING CONSTITUTIONAL HUMAN RIGHTS IN  
PRE-TRIAL CRIMINAL PROCEEDINGS”**

**Almaty/Akbulak, Kazakhstan, 18-19 February 2011**

**SYNOPSIS**

Within the context of Kazakhstan's current reform of its criminal justice system (which started with the reform of the role of defence lawyers), the Constitutional Court of Kazakhstan together with the Venice Commission, funded by the EU within the framework of the joint programme "EU-Central Asia Rule of Law Initiative", the GIZ and the Government of the Republic of Kazakhstan, has organised an international conference on "Safeguarding constitutional human rights in pre-trial proceedings", in Akbulak, Kazakhstan on 18-19 February 2011.

This event gathered together approximately 80 people, including the Deputy Prime Minister of Kazakhstan, the Chairman and members of the Constitutional Council, representatives of the Administration of the President, representatives of Parliament, of Government, including the Minister for Internal Affairs and the Minister for Justice, the Chairman of the Supreme Court and chairmen and judges from the local courts of Almaty, representatives of state bodies, the Ombudsman, representatives of local executive bodies and academics from Kazakhstan.

The Venice Commission's delegation consisted of: Mr M. Lindemann, Mr D. Petit, Mr M. Olivetti and Mr G. Buquicchio and Ms T. Gerwien.

Presentations covered the role of prosecutors and defence lawyers in criminal proceedings, the practice of pre-trial detention in France, Germany and Italy and the developments in the judicial system of Kazakhstan in this respect. Topics such as reforming investigative bodies to improve pre-trial proceedings in Kazakhstan, the case-law of the Constitutional Council of Kazakhstan on this issue and the reform of the law-enforcement system in Kazakhstan were discussed. The introduction of Alternative dispute resolution, notably mediation for misdemeanours in Kazakhstan was also mentioned.

Misuse of the media by politicians during criminal proceedings pre-empting a verdict of a suspect and the need to find a balance between speeding up proceedings and the protection of human rights, were discussed.

Participants also raised the problem of conflicts that occur between different laws defining certain offences and how investigations are to be carried out, which need urgent attention as does the fact that there is a serious lack of defence lawyers in Kazakhstan (currently only 4000 in the entire country).

Finally, the problem of the excessive coercive powers of the prosecution was raised and the problem that defendants cannot be properly defended in a system that has already condemned them. In such a system, defendants are often prevented from appealing a decision made against them and this needs to be addressed urgently. In this respect, the participants were told that a bill was currently being discussed in Parliament to improve the situation and work of defence lawyers and increasing their numbers in the country.