

OECD Public Governance Reviews

Decentralisation and Multi-level Governance in Kazakhstan

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Foreword

In May 2015, the President of Kazakhstan unveiled a vast and ambitious programme of reforms entitled the 100 Concrete Steps, in order to bring about five institutional transformations: creation of a modern and professional civil service; the establishment of the rule of law; industrialisation and economic growth; a unified nation for the future; and transparency and accountability of the state.

In this context and building on the 2014 OECD Report of the Central Administration of Kazakhstan, this *OECD Decentralisation and Multi-level Governance in Kazakhstan Review* examines the public governance reforms undertaken by the Kazakh authorities since 2014 aiming to strengthen the effectiveness and responsiveness of public institutions across levels of government. In particular, this review explores the role of the decentralisation process as a means to increase self-reliance, civic participation, accountability, and enhanced capacity at the local governance level.

Indeed, since independence, the Kazakh government has made strides to enhance the quality of local governance, including through the adoption of laws on local self-government and reforms aimed at delimitation of responsibilities across the levels of government. At the same time, both central and local governments need further investments in order to adjust their capacities to effectively adopt a new set of responsibilities. Concentration of power at the central level of government continues to influence the nature of local politics and governance exercised by local executive bodies. To this end, the review recommends a number of actionable recommendations to support Kazakhstan in strengthening the effectiveness of its multi-level governance, including enhancing the role of local government representatives and local non-governmental stakeholders in decision-making processes, formalising mechanisms to enable active and meaningful citizen participation in the decentralisation process, establishing fixed mandates for akims at all levels of local government and considering term limits for all akims who are to be elected. The review also underlines the importance of strengthening capacity of local communities and officials to support the process of participatory budgeting and its implementation and

enhancing mechanisms for arbitration and resolution of issues at all levels of government.

The review is comprised of three chapters. Chapter 1 presents the context of the local government reforms, covering the transition from a highly centralised state with a hierarchically organised system of government towards a more decentralised structure. Chapter 2 addresses the historical and current legislative institutional framework for decision making at the local government level. In addition, the chapter explores the impact of the recent reforms on the distribution of mandates and functions across the levels of government. Chapter 3 examines the capacity of local governments to exercise both budgetary and legislative authority, powers and responsibilities. Furthermore, this chapter looks at the system of the fiscal equalisation and the budgetary decision-making process, as well as the impact of transfers of financial and human resources following the shift of responsibilities between tiers of government.

This review was carried out under the programme of work of the OECD Public Governance Committee, based on its longstanding expertise in public governance reforms and strengthening administrative capacities of member and non-member countries. This work was conducted within the 2015-16 OECD Kazakhstan Country Programme, which aims to support the country during a period of critical transitions. The Country Programme seeks to facilitate the implementation of public governance reforms, including the organisation and management of the public sector, decentralisation, openness and transparency and gender-sensitive decision-making processes, while promoting Kazakhstan's adherence to the OECD instruments and use of OECD standards and best practices. Four reviews were carried out as part of the Country Programme on public governance: *Towards an open government in Kazakhstan*, *Towards a more effective, strategic and accountable state in Kazakhstan*, *Gender policy delivery in Kazakhstan*, and the review presented in this report. All of these reviews aim to deepen the analysis and support the implementation of the recommendations outlined in the 2014 OECD Review of the Central Administration in Kazakhstan.

This work provides a foundation for future engagement between Kazakhstan and the OECD as Kazakhstan progresses in its efforts to benefit of the potential offered by decentralisation and multi-level governance and improve the quality, efficiency and effectiveness of government services as a means of increasing local development.

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Executive summary

At the dawn of its independence, Kazakhstan had a highly centralized administrative system inherited from the Soviet period. This system was characterized by strict control of the central level over the resources, decisions, and responsibilities of the local government. Later, as economic reforms progressed, the country saw the need to grant more autonomy and flexibility to the local level in order to increase transparency and responsiveness to citizen needs. These efforts took place as part of a set of public governance reforms in Kazakhstan to streamline the public administration and budgeting systems, apply the principles of the rule of law and a regulatory state, and modernise public institutions.

Since 1991, Kazakhstan has built the legislative basis for the work of the local governments, including the division of responsibilities among the levels. The concepts, structure, and foundations of the local administration are set by the Constitution. More recently, a series of laws has defined the functions to be performed by the local, regional, and central levels of public administration. The Constitution also states the right of citizens for local self-governance and representation at the local level.

The decentralisation process is ongoing. On 28 November 2012, the Concept of Development of Local Self-Government in the Republic of Kazakhstan was approved as part of Kazakhstan's strategic long-term development agenda, Kazakhstan 2050. The development of the functions and capacity of local public administration and self-governance remains at the centre of national governance reforms. This is reflected in the Presidential agenda of Five Institutional Reforms and 100 steps to implement them, published in 2015.

At the same time, decentralisation so far has been implemented as a primarily administrative and legislative exercise. Little attention has been given to the voice of the citizens, local communities, civil societies, local government themselves, and other stakeholders. This needs to change if Kazakhstan is to benefit from its multi-level governance system in the future, as such a system requires negotiations and co-operation among different levels of government and communities.

To this end, Kazakhstan should further develop the mechanisms for engaging local communities, civil society, and other stakeholders in decision making on issues related to local governance and development. In part, this can be done by developing the role of the local representative bodies (maslikhats), the recently established public councils, and, at the national level, Parliament.

The autonomy of local administrations following decentralisation reforms will depend on the predictability and sufficiency of their fiscal and human resources. Local administrations and stakeholders need to participate more actively in decision making on these issues.

The 2014 OECD Review of the Central Administration of Kazakhstan noted that the centralized system of public administration, in which functions were concentrated at the central government level, had resulted in a weakened capacity at the local level. This was a starting point for the present report, which assesses the status of decentralisation reforms in Kazakhstan, and provides recommendations on further steps, based on OECD countries' experience. The recommendations presented can help Kazakhstan to achieve the goals included in the national agenda of institutional transformations.

Key findings and recommendations

The context of local government reform in Kazakhstan

- Decentralization is one of the key priorities of the public administration reforms in Kazakhstan. National institutional transformation agenda pays significant attention to decentralisation and development of local governments' autonomy, as well as citizens' representation.
- At the same time, the reforms can be strengthened by further supporting engagement of the national and local stakeholders and local communities in the process of public discussion and decision-making on decentralisation issues.

Legal and institutional frameworks for local government in Kazakhstan

- Since independence, Kazakhstan implemented several sets of large-scale regulatory reforms aimed at delimitation of responsibilities across the level of the governance, unification of the government structures and public services across the regions of the country, and building permanent fiscal resource base for the local administrations. The legal foundations for the work of local governments are set. However, both local and central governments need time to adjust their capacities and adopt to the new set of responsibilities after each change. Thus, too frequent changes do not support effective implementation of the decentralization reforms.
- The status, structure and responsibilities of the local administrations are still defined at the central level, and the local executives (*akims*) are seen as part of the overall executive system and representatives of the President and Government in their administrative units.
- Recently implemented elections of *akims* at the lowest level of governance, though indirect and with certain limitations, represent an important step in strengthening the principle of local communities' representation in decision-making at the local level.

- Decentralization process is supported by the institutions at the national level, though the role of the Parliament and the civil society can be further strengthened.

Capacities and role of local government in Kazakhstan in the context of decentralisation

- The system of fiscal equalization is in place, and the sub-national governments in Kazakhstan have their resource base for implementation of their functions. The principles for distribution of fiscal resources across the levels of government are fixed in the Budget Code and a number of other key laws and acts.
- At the same time, sub-national governments to a significant extent depend on the central level for their fiscal resources, part of which they receive in the form of general and targeted transfers.
- The scope of decision-making of the local governments on revenue issues is very limited, since the taxation issues are prescribed by the Tax Code, and the tax administration system is centralized.
- The human resource capacity of the local governments is also mostly defined at the central level in the form of so called “staff limits” set by the central government for the local and regional administrations.
- Training of the local officials is essential for the capacity building at the local level. Growing autonomy of the sub-national levels will require also effective mechanisms for conflict resolution and coordination of the joint activities of different levels of government.

Key recommendations

To further develop the institutional foundations of the local government:

- The role of local government representatives and local non-governmental stakeholders should be enhanced and formalised in the process of functional review and decision making. This could be achieved by increasing the participation of these actors in the work of the National Modernization Commission.
- Further develop formal mechanisms to enable active and meaningful citizen participation in the decentralisation process and local decision making. These mechanisms should be comprehensive and include requirements on the full-scope information necessary for decision-

making to be provided to the citizens on the regular basis, the feedback mechanisms, development of functions of the government agencies related to increasing responsiveness to citizens (accountability, public communication, transparency of the decision-making).

To streamline, enhance, and support the process of decentralization:

- Ensure ongoing assessments of the necessity and impact of legal and policy changes affecting local governments in Kazakhstan. This assessment should be based on outcomes-based evaluations of functional transfers and their impacts on local governments and citizens. Local governments, civil society and ordinary citizens should be involved as participants in this process not only through opinion surveys, but also through a wide range of mechanisms, such as public discussions, analytical assessments (performed by the civil society organizations), and other forms of communication.
- Deepen the integration of economic, policy and administrative considerations in assigning responsibilities to local governments during the ongoing functional review and decentralisation, which should be delivered closest to citizens.
- Consider refining the process of functional review to ensure that it includes effectiveness and efficiency of service delivery at the local level as a principal consideration.
- Implement the already planned reforms of local representation and bring forward the election of akims up to the level of raions and cities of oblast significance. Establish fixed mandates for akims at all levels of local government and consider establishing term limits for all akims who are to be elected.
- Strengthen capacity of local communities and officials to support the process of participatory budgeting and its implementation.
- Ensure that the information provided by the government agencies and quasi-governmental organizations at all levels, including the local government, is sufficient for the assessment, awareness on key issues, and open decision-making in the local and regional communities, as well as at the national level.
- Consider strengthening guiding and advisory functions at the central-level unit responsible for the local governments' affairs (currently within the Ministry National Economy).

- Consider granting greater autonomy and flexibility in the management of human resources within local executive bodies, for example, in the areas of staffing and performance- and region-based remuneration.
- Establish a dedicated training stream for local government officials. This training stream could be offered by the Academy of Public Administration as a separate programme.
- Support capacity building among local community stakeholders, including through fostering of independent civil society organisations.

To provide the local governments with necessary resources and capacities for fulfilling their newly defined responsibilities:

- Undertake regular review of the fiscal transfer system to ensure stability and predictability of transfers to local executive bodies while still being responsive to economic growth. This could be achieved by basing the transfers on a rolling three-year average of economic activity and government revenues and expenditures. Any changes made should not result in any major change to the amount of the general transfer (i.e. changes should be expenditure neutral).
- Consider undertaking independent evaluations of the effects of local participatory budgeting, which can help ensure that it has met its expected outcomes and resulted in a tangible improvement for citizens and local communities.
- Strengthen mechanisms for active and meaningful civil society participation in the assessment of local executive bodies' performance, including its effectiveness, responsiveness and openness. This should also include transparency in the publication of the results of the assessments of the activities of local bodies, including on the actions to be taken based on the results of these assessments.
- Enhance transparency in the process and methodology used to assess and decide on the transfer of functions. This information should be freely available to all relevant stakeholders, including the public and civil society organisations.
- Strengthen a mechanism to arbitrate any issues that arise between levels of government to facilitate the independent, balanced, open and transparent review of issues brought before it for resolution.

- Strengthen channels to enable participation of a wide range of local and national governmental and non-governmental stakeholders in national discussions on the role of local governments.

Summary action plan

Summary of gaps	OECD recommendations	Good practices to consider
1. Resources and fiscal capacity at the local government		
<p>Predictable and stable funding: Changes in local government transfers are susceptible to variations in Kazakhstan's general economy. While it may be difficult to fully anticipate government revenues, Kazakhstan could follow the example of OECD countries which have sought to build in stability and predictability in their transfer regimes.</p>	<p>Undertake regular review of the fiscal transfer system to ensure stability and predictability of transfers to local executive bodies while still being responsive to economic growth. This could be achieved by basing the transfers on a rolling three-year average of economic activity and government revenues and expenditures.</p>	<p>Canada, France, Germany, Japan, United Kingdom.</p>
<p>Clarify the method of calculation of the general transfers to local governments: Ensuring that local governments have access to the financial resources they need to fulfil their responsibilities is essential to the success of any decentralisation process. At the same time it is important to ensure that the method used to calculate these resources is known and transparent to all governments affected. At present, there is room to improve the ways in which the method used to calculate central government transfers is communicated to local governments, which seem to include several discretionary elements. In the future, it may be useful for Kazakhstan to</p>	<p>Any changes made should not result in any major change to the amount of the general transfer (i.e. changes should be expenditure neutral).</p>	

Summary of gaps	OECD recommendations	Good practices to consider
<p>consider greater transparency in the process by which local government funding is determined.</p>		
<p>2. Scope and purpose of decentralisation</p>		
<p>Defining the allocation of local government functions: The current allocation of responsibilities and functions to local governments in Kazakhstan includes responsibilities which are often not typically associated with local government delivery in OECD countries. Kazakhstan would benefit from applying the principle of transferring to local governments only those functions which matter most of citizens and local communities.</p> <p>It is also important to ensure that the transfer of governmental functions contributes to increasing the efficiency and effectiveness of local public administration and serve to increase the quality of life for local citizens</p>	<p>Deepen the integration of economic, policy and administrative considerations in assigning responsibilities to local governments during the ongoing functional review and decentralisation, which should be delivered closest to citizens.</p> <p>Consider refining the process of functional review to ensure that it includes effectiveness and efficiency of service delivery at the local level as a principal consideration.</p>	<p>France, Poland</p>
<p>Policy alignment: Kazakhstan is currently engaged in wide-ranging reforms with the goal of increasing effectiveness and efficiency of government through streamlining its functions. The reforms call for transfers of functions to other levels of government, between government bodies, and to the private sector through self-regulation. Because each of these options have different considerations, impacts, and consequences it would be beneficial to unbundle this process, thus recognising the differing scope and outcomes of each option. This would further facilitate decision-making and help to clarify the role of each actor in the process.</p> <p>Kazakhstan's process of functional review should be refined to include as a principal consideration the effectiveness and efficiency of service delivery at the local level.</p>	<p>The role of local government representatives and local non-governmental stakeholders should be enhanced and formalised in the process of functional review and decision-making. This could be achieved by increasing the participation of these actors in the work of the National Modernisation Commission.</p>	

Summary of gaps	OECD recommendations	Good practices to consider
<p>Assess for impact and capacity: Decentralisation and the transfer of functions between levels of government has been a key part of Kazakhstan's governance since 1996. Like the decentralisation reforms which preceded, those under the Plan of the Nation aim to find the right balance between the roles and responsibilities of governments. It is important to consider the impact which this state of constant change and reform has had on the efficiency and effectiveness of local governments. Too frequent changes temporarily disrupt the affected administrations, induce material costs and can generate losses in organisational culture, motivation and productivity. It may therefore be useful for Kazakhstan to assess the impact of functional transfers to date and consider whether further decentralisation of functions is in light of their necessity, utility and impact.</p> <p>Consistent with the Plan of the Nation's aim of increasing public participation, this assessment should include inputs from local governments, civil society and ordinary citizens.</p>	<p>Ensure ongoing assessments of the necessity and impact of legal and policy changes affecting local governments in Kazakhstan. This assessment should be based on outcomes-based evaluations of functional transfers and their impacts on local governments and citizens. Local governments, civil society and ordinary citizens should be involved as participants in this process not only through opinion surveys, but also through a wide range of mechanisms, such as public discussions, analytical assessments (performed by the civil society organisations), and other forms of communication.</p>	<p>Poland's experience with regard to public-private partnerships</p>
<p>Dispute resolution: As Kazakhstan proceeds with the decentralisation and transfer of responsibilities from the central government to local government the potential for disagreement between levels of government is likely to increase. Though referring to central government direction to resolve differences with reference to legal instruments or national policy directions may be expedient, it may potentially exacerbate differences between governments by pushing the source of the disputes forward. In these circumstances it may be advisable to consider establishing a formal dispute resolution mechanism.</p>	<p>Strengthen a mechanism to arbitrate any issues that arise between levels of government to facilitate the independent, balanced, open and transparent review of issues brought before it for resolution.</p>	<p>Germany, Japan, Spain.</p>

3. Civic engagement and public participation

Summary of gaps	OECD recommendations	Good practices to consider
<p>Citizen-focused process: Increasing public participation and making government more responsive to the needs of citizens and local communities is one of the explicit goals of Kazakhstan's decentralisation reforms. Where government services feature local delivery– so called proximity services – the impact on the citizen will be greater. As a result, though the choice about which functions to transfer to local government is inherently a policy choice, it should be informed by considerations of cost, efficiency and effectiveness, as well as impact on citizens.</p>	<p>Further develop formal mechanisms to enable active and meaningful citizen participation in the decentralisation process and local decision making. These mechanisms should be comprehensive and include requirements on the full-scope information necessary for decision-making to be provided to the citizens on the regular basis, the feedback mechanisms, development of functions of the government agencies related to increasing responsiveness to citizens (accountability, public communication, transparency of the decision-making).</p>	
<p>Civic engagement and public participation in local decision-making: Establishing a link between local communities and local officials contributes to enhancing representativeness and accountability of local executive bodies. The election of akims therefore serves to build ties with the local communities which have been undermined by the recurring practice of appointing akims with little to no connection to their regions.</p> <p>Increasing the public participation in local decision-making also calls for citizens to be able to renew the mandate of their local leadership. This can be achieved through establishing fixed term mandates for akims.</p>	<p>Implement the already planned reforms of local representation and bring forward the election of <i>akims</i> up to the level of raions and cities of oblast significance.</p> <p>Establish fixed mandates for <i>akims</i> at all levels of local government and consider establishing term limits for all <i>akims</i> who are to be elected.</p>	<p>OECD countries</p>
<p>Stakeholder involvement and capacity at the local level: Building the capacity to participate in civic affairs is frequently a precondition to increasing the engagement of citizens in local government.</p>	<p>Support capacity building among local community stakeholders, including through fostering independent civil society organisations.</p>	<p>Poland</p>
<p>Develop capacity to implement participatory budgeting: International experience shows that the implementation of participatory budgeting requires enhancing the capacity of local citizens to become full participants in the process. This includes ensuring that citizens understand the process and its</p>	<p>Consider undertaking independent evaluations of the effects of local participatory budgeting, which can help ensure that it has met its expected outcomes and resulted in a tangible improvement for citizens and local</p>	<p>United Kingdom</p>

Summary of gaps	OECD recommendations	Good practices to consider
<p>implications may require procedures and guidelines written in simple, accessible language, to be provided. It may also be necessary to develop capacity through community-based training; training local officials, and supporting the process, such as by making experienced facilitators available.</p> <p>International examples suggest that local community involvement in budgetary decisions makes a positive contribution to public governance. However, it is essential to put in place a system to ensure that this practice leads to positive impacts.</p>	<p>communities.</p>	
<p>Accountability and oversight: Enhancing accountability and transparency of government is a critical element in good public governance. Kazakhstan's current reforms include measures to increase the access of citizens to information about their government. Step 96 of the 100 Concrete Steps calls for central state institutions to be required to make public the results of various accountability and oversight documents including all budgets, spending and consolidated financial reports, and results of external assessment of public service quality. In keeping with this reform it will be similarly important to ensure that the scope of the Access to Information law also applies to local governments.</p> <p>As the prime recipients of public services, the public should play an active role in evaluating the performance of government bodies</p>	<p>Ensure that the information provided by the government agencies and quasi-governmental organisations at all levels, including the local government, is sufficient for the assessment, awareness on key issues, and open decision-making in the local and regional communities, as well as at the national level.</p> <p>Strengthen mechanisms for active and meaningful civil society participation in the assessment of local executive bodies' performance, including its effectiveness, responsiveness and openness. This should also include transparency in the publication of the results of the assessments of the activities of local bodies, including on the actions to be taken based on the results of these assessments.</p>	<p>Canada, France, United Kingdom.</p>
<p>Transparency: The current process of decentralisation will have an impact on local governments and local communities. For this reason it is important to ensure that the decision-making process associated with decentralisation is as open and transparent as possible to all those concerned and impacted.</p>	<p>Enhance transparency in the process and methodology used to assess and decide on the transfer of functions. This information should be freely available to all relevant stakeholders, including the public and civil</p>	

Summary of gaps	OECD recommendations	Good practices to consider
Though the process used to chart decentralisation appears comprehensive and open to inputs from local sources, it also appears shrouded to most outside actors. The transparency and the clarity of the process should be increased.	society organisations.	
4. Capacity-building		
<p>Training and development: Establishing an identity and professional cadre for the local government civil service may also include the need to develop its capacity. Several OECD member governments have sought to strengthen the role of local government through the establishment of training institutions. Creating the conditions to enable the success of the decentralization reforms may similarly require an investment in the development of the civil service at the local government level.</p> <p>Successful decentralisation process requires attention to both the types of responsibilities to be transferred and the human capital that will be required to undertake these new roles at the local government level. In many OECD member countries, local government officials, managers, and staff are regularly offered opportunities to supplement their skills and expertise by taking advantage of training that is tailored to their roles in local governments. Kazakhstan also faces a human capital development challenge as it proceeds with the decentralization of government functions.</p>	Establish a dedicated training stream for local government officials. This training stream could be offered by the Academy of Public Administration as a separate programme.	France, Japan.
<p>Legislative framework to support civil service capacity at the local level: The civil service is one of the key institutions supporting the implementation of Kazakhstan's decentralisation reforms. Increasing the roles and responsibilities of local government should be accompanied by changes to the organisation of the civil service to better reflect the operational context of local governments, as well as the likely impacts of decentralisation on their human resources needs and capacity.</p>	Consider granting greater autonomy and flexibility in the management of human resources within local executive bodies, for example, in the areas of staffing and performance- and region-based remuneration.	France, Germany.

Summary of gaps	OECD recommendations	Good practices to consider
<p>Ensuring the effectiveness of the decentralisation calls for a framework that reflects the new roles and responsibilities that civil services are expected to take on as a result of the reform.</p>		
<p>5. Co-ordination among Central Government actors</p>		
<p>Horizontal and vertical policy co-ordination: The responsibility for local government policy and oversight is shared between several central government bodies and, within bodies the responsibility is frequently disaggregated. This dispersion of policy and supervisory responsibility for local government in many cases creates problems of coordination at both the level of the central administration and that of local government. Internal administrative co-ordination is an important means of ensuring policy coherence and alignment of government actions. This is all the more important when policy responsibility resides within a single ministry.</p> <p>Local governments have the potential to be major actors in several areas of policy which impact on the well-being of Kazakhstan's people. For this reason, it is essential for the government to take a horizontal perspective on any change in policy or legislation which impacts on local government, including redefining its roles and responsibilities.</p>	<p>Consider strengthening guiding and advisory functions at the central-level unit responsible for the local governments' affairs (currently within the Ministry National Economy).</p>	<p>Spain</p>
<p>Capacity to articulate a local-government vision: One means of encouraging co-ordination and co-operation is by developing capacity for lower tier governments to work and learn from each other. As politically neutral organisations these bodies work on behalf of local government. In this role they can advocate for local government and influence national policy-making through locally-based solutions to national problems. The ability of local government to influence policy development can be</p>	<p>Strengthen channels to enable participation of a wide range of local and national governmental and non-governmental stakeholders in national discussions on the role of local governments.</p>	<p>Canada, France, United Kingdom.</p>

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Summary of gaps	OECD recommendations	Good practices to consider
enhanced by fostering the development of shared interests and in building the capacity of local governments to engage with the central government.		

Chapter 1

The context of local government reform in Kazakhstan

This chapter provides a brief overview of a process of reforms that has driven a significant shift in Kazakhstan's public governance from a high degree of centralisation towards an increase in the responsibilities of subsidiary levels of government.

In the 25 years since achieving independence from the Soviet Union, Kazakhstan has embarked on an ambitious process of reform which has brought significant change and evolution to its public governance. Though Kazakhstan is a unitary state featuring a high degree of centralisation and a hierarchically organised system of government, its government has displayed a keen interest in increasing the responsibilities of subsidiary levels of government.

This policy assessment aims to examine the main features of Kazakhstan's decentralisation process. To this end, the assessment considers a number of issues which touch upon the process of decentralisation and certain considerations for implementation in the future. As will be discussed below, finding the right balance between the roles and responsibilities of Kazakhstan's levels of government has been an enduring feature of its governance discussions. The most recent interest in decentralisation in favour of increased roles for local governments stems for the most part from the objectives set out in the government's national development plan, Kazakhstan 2050, and the associated Five Institutional Transformations and 100 Concrete Steps announced by President Nursultan Nazarbayev in 2015.

The starting point for this assessment is the observation contained in the 2014 OECD *Review of the Kazakhstan's Central Administration*, which pointed out that the centralisation of functions at the central government level had resulted in a weakened capacity at the local level. Though Kazakhstan had in place a legislative framework for central-local government relations, the 2001 Law on Local Government, the OECD's previous review found its implementation to have been uneven, stemming in part from the lack of clarity in the roles and authorities of local legislatures (*masklihats*); the lack of differentiation between the functions of subnational levels of government (*oblasts*; *raions*; and cities, towns and villages); and a lack of a clear role for citizens to in the decision-making process (OECD, 2014: 66-67).

This assessment seeks to assist Kazakhstan's decentralisation efforts by proposing areas where policy options may help best realise the potential of these reforms. To this end, the report reviews the factors surrounding the decentralisation of government responsibilities, the steps taken to institute these reforms and their consequences across a number of governance areas. The report makes further proposals to guide Kazakhstan as it moves forward with further decentralisation, including toward greater multi-level governance, and to consolidate existing changes.

Methodology

The report is based on the OECD’s methodology which includes analysis based on multiple points of evidence. The report draws significantly on the expertise of peers and experts from OECD member countries, along with practice-based evidence from its 35 member countries and other relevant international experiences. This information is supplemented by responses to the OECD’s questionnaire completed by the Ministry of National Economy, as the ministry responsible for regional governments, and local executive bodies, the *akimats*; peer review led fact-finding meetings with representatives of central and local governments and non-governmental organisations; research reports and academic sources.

Decentralisation and multi-level governance

There is no consensus about the degree to which decentralisation of functions should be pursued, as evidenced through the wide difference of degree to which OECD and its partner countries have decentralised. However, as economic and institutional development increases, countries’ interest in decentralisation of authority, responsibility and resources from the national to subnational governments also increases. Indeed, developing and transition countries in particular have seen a general trend towards increased decentralisation, along with increased democratisation. The interest in decentralisation has been prompted by the desire of governments to improve the quality, efficiency and effectiveness of government services and as a means of increasing local development. The benefits deemed to accrue for decentralisation include increased self-reliance, civic participation and accountability. For these reasons, many international organisations have advocated decentralisation as an important aspect of governance (Bhuiyan, 2010; UNDP, 2002; White, 2011; Linn, 2014).

Decentralisation

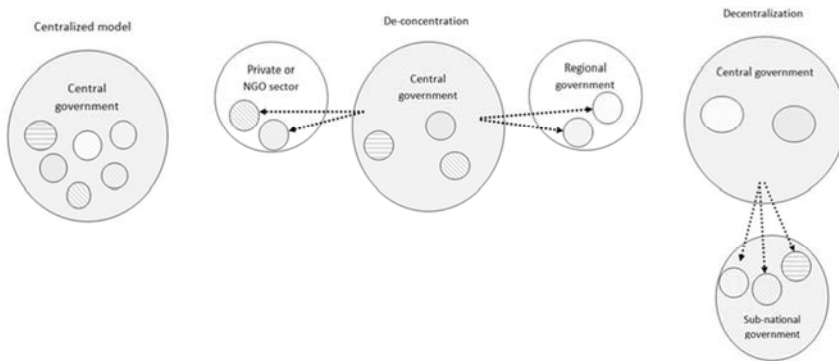
Decentralisation is a complex and multifaceted concept. It describes both a process and a form of governance. As a process, decentralisation refers to the transfer of authority and responsibility for public functions from the central government to subordinate levels of government, whether intermediate or local governments. Decentralisation may refer to several different forms of transfers, all of which apply to the case of Kazakhstan (Figure 1.1). These include:

- “fiscal decentralisation, entailing the transfer of financial resources in the form of grants and tax-raising powers to sub-national units government;

- administrative decentralisation ... where the functions performed by central government are transferred to geographically distinct administrative units; and
- political decentralisation where powers and responsibilities are devolved to elected local governments” (or democratic decentralisation) (Robinson, 2007).

Decentralisation can also be used to describe a form of public governance, where the powers of government are shared or distributed between several levels of government. This arrangement is frequently used to describe forms of government such as those found in federations. By contrast, though Kazakhstan has decentralised aspects of its public administration in favour of local governments, its current model of government is unlikely to embrace decentralisation to the fullest possible extent.

Figure 1.1. Models of functional allocation and transfer



Multi-level governance

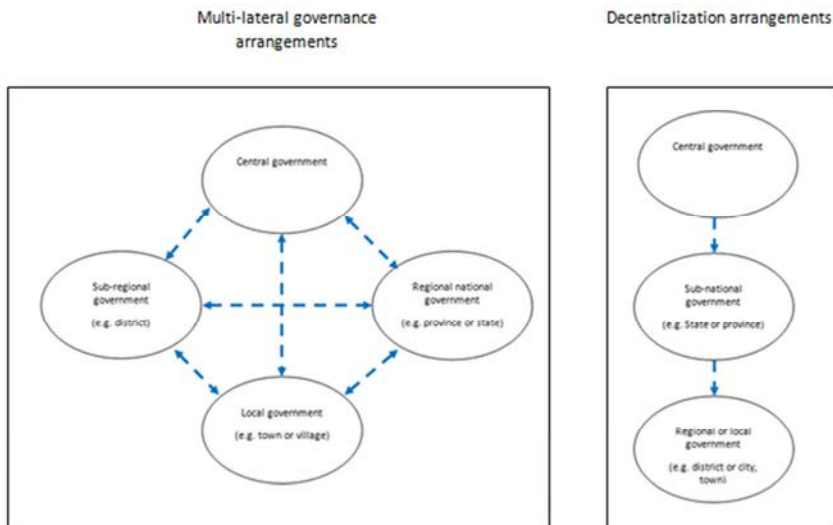
If decentralisation is frequently associated in the literature with multi-level governance (Charbit, 2011), in practice these two concepts are different. The OECD defines multi-level governance as the existence of relationships between different administrative levels, such as between the national and subnational levels of government. Multi-level governance is often associated with federal systems, where shared governance is constitutionalised, but it may also apply to other forms of territorial administrative arrangements.

The concept of multi-level governance originally emerged to describe the governance mechanisms of the European Union. Over time, the concept evolved to describe processes where national governments, while playing a

vitality important role, did not have a monopoly on decision making (Hooghe and Marks, 2002; LaForest, 2011).

Both multi-level governance and decentralisation have specific implications for local governance (Charbit, 2011: 13; Bhuiyan, 2010: 660). Multi-level governance and decentralisation are related concepts – each describes a different form of relationship between governments. As illustrated in Figure 1.2, in a decentralised arrangement, responsibilities flow from the central level of government to the subnational level. The relationship which ensues is binary as it involves only two governments. In multi-level governance arrangements, responsibilities for public policies are shared among governmental actors at several levels. As a result, the resolution of public policy problems requires interactions which flow in several directions. However, it is important to note that multi-level governance and decentralisation are not mutually exclusive as, for example, decentralisation from the central government to the subnational level may lead to the same dynamic flow of responsibilities between lower level governments (as illustrated in Figure 1.2).

Figure 1.2. Governance arrangements



Source: Based on Charbit, C. (2011), “Governance of public policies in decentralised contexts: The multi-level approach”, <http://dx.doi.org/10.1787/5kg883pkxkhc-en>.

Clarifying the modes and goals of functional transfers

Decentralisation is an integral part of public governance reforms, which aim to streamline the roles and responsibility of the national government. Pursued as part of Kazakhstan's Plan of the Nation, the country has embarked on a broad process of functional review with the goal of transferring out of government functions deemed redundant or for which the non-governmental sector may be the best suited (President of the Republic of Kazakhstan, 2015). Though described in official documents and by Kazakh officials as a process of decentralisation, the process outlined in the Plan of the Nation resembles by its scope and actions a process of deconcentration (see Figure 1.1).

Modelled on international initiatives and best practices, the Plan of the Nation calls for functional transfers which include forms of self-regulation, outsourcing and privatisation (President of the Republic of Kazakhstan, 2015). Established to advise the President on the implementation of the plan, the National Modernization Commission was given the role of:

- defining the list of functions to be transferred to the private sector for each state body
- selecting the form of function transfer
- analysing the preparedness of the private sector to perform the state functions (including consideration of regulations, price and quality criteria)
- considering the rules for transferring functions prepared by state bodies
- developing a system for the monitoring and oversight of transferred functions (President of the Republic of Kazakhstan, 2015).

In implementing the Plan of the Nation, it will be important to ensure a clear distinction between functional transfers to lower levels of government and the private and non-governmental sector, as well as to clearly establish the criteria for the nature of the responsibility to be transferred and the choice of transfer instrument, which will have an impact on both processes and outcomes. This is especially important where citizen-focused functions are involved. It would be beneficial for the National Modernization Commission to consider these issues to ensure equal access to quality services by citizens across the entire country.

Recommendation

The role of local government representatives and local non-governmental stakeholders should be enhanced and formalised in the process of functional review and decision making. This could be achieved by increasing the participation of these actors in the work of the National Modernization Commission.

Kazakhstan’s decentralisation should be pursued to enhance outcomes for citizens

How far decentralisation should be pursued in Kazakhstan, or in any country, is foremost a choice steeped in the national political culture. How competencies are shared between levels of government can therefore be country specific. As countries consider the degree to which decentralisation is to be pursued, specific national characteristics, policy implications and impacts need to be taken into consideration (Bhuiyan, 2010; Charbit, 2011: 13). As such, there is no optimal level for the allocation of responsibilities between governments and, consequently, no universal benchmark against which to measure governments’ recourse to multi-level governance or decentralisation. At best, countries may rely on principle-based charters and conventions, such as the Aberdeen Agenda (Commonwealth Local Government Forum, 2005) or the European Charter on Local Self-Government (Council of Europe, 1985) to measure how decentralisation in favour of local government has been implemented.

Internationally, there are few examples of countries where all powers and public policy responsibilities are centralised at the national level of government. Instead, in most countries, providing goods and services to citizens is the responsibility of several levels of government. The choice of which level of government should hold which public policy responsibility is the result of the national political evolution which accounts for societal, economic and political choices. Given this, the balance between decentralisation and centralisation will shift as countries find different points of equilibrium between these two forces over time (OECD, 2013).

Across the OECD, national or regional regulations provide more or less details on local governments’ responsibilities, as they often refer to the general clause of competence. This gives local authorities explicit freedom to act in the best interests at local level. In this case, laws rarely limit or specify local responsibilities, but instead enumerate broad functions, except if a particular responsibility is devolved by law to another level of government. Laws can also define whether a subnational responsibility is an

own/exclusive local function, a delegated task on behalf of the central government or another subnational government, or a shared responsibility with another institutional government level. In addition, some subnational responsibilities can be mandatory while others are optional. As a result, the breakdown of competences between the central/federal government and subnational governments as well as across subnational levels of government is particularly complex, sometimes leading to competing and overlapping competences and a lack of visibility and accountability concerning public policies. For each sector and sub-sector, one or more levels of government (central government, state or region, intermediary government and municipal level) may intervene and exercise one or more key functions: regulating, operating, financing and reporting.

Figure 1.3. **Breakdown of responsibilities across subnational levels of government: A general scheme**

Municipal level	Intermediary level	Regional level
<ul style="list-style-type: none"> • A wide range of responsibilities: <ul style="list-style-type: none"> – General clause of competence – Eventually, additional allocations by the law • Community services: <ul style="list-style-type: none"> – Education (nursery schools, preelementary and primary education) – Urban planning and management – Local utility networks (water, sewerage, waste, hygiene, etc.) – Local roads and city public transport – Social affairs (support for families and children, elderly, disabled, poverty, social benefits, etc.) – Primary and preventative healthcare – Recreation (sport) and culture – Public order and safety (municipal police, fire brigades) – Local economic development, tourism, trade fairs – Environment (green areas) – Social housing – Administrative and permit services 	<ul style="list-style-type: none"> • Specialised and more limited responsibilities of supra-municipal interest • An important role of assistance towards small municipalities • May exercise responsibilities delegated by the regions and central government • Responsibilities determined by the functional level and the geographic area: <ul style="list-style-type: none"> – Secondary education or specialised education – Supra-municipal social and youth welfare – Secondary hospitals – Waste treatment treatment – Secondary roads and public transport – Environment 	<ul style="list-style-type: none"> • Heterogeneous and more or less extensive responsibilities depending on countries (in particular, federal vs unitary) • Services of regional interest: <ul style="list-style-type: none"> – Secondary/higher education and professional training – Spatial planning – Regional economic development and innovation – Health (secondary care and hospitals) – Social affairs, e.g. employment services, training, inclusion, support to special groups, etc. – Regional roads and public transport – Culture, heritage and tourism – Environmental protection – Social housing – Public order and safety (e.g. regional police, civil protection) – Local government supervision (in federal countries)

Source: OECD (2016a), *OECD Regions at a Glance 2016*, http://dx.doi.org/10.1787/reg_glance-2016-en.

To a significant degree, the main issues to be addressed by decentralisation are fiscal and political. Though fiscal arguments have focused on issues of effectiveness and efficiency, the main issue is ensuring that respective levels of government have the necessary resources to fully

undertake their responsibilities. The political arguments are primarily concerned with linking the response to citizens' needs with commensurate political and democratic accountability. It follows, therefore, that the transfer of responsibility from one level of government to another should be accompanied by both a transfer of fiscal resources and political accountability. This is especially important where local political institutions are underdeveloped or non-existent (OECD, 2013).

At the same time, the citizen needs to be placed at the centre of the process of decentralisation. In the end, decentralisation should be about making public services more responsive to the needs of local communities. In the case of Kazakhstan, the centralisation of many functions, such as national defence, has little direct impact on citizens. However, where government services feature local delivery – so-called proximity services – the impact on the citizen will be greater. And though the choice about which functions to transfer to local governance is inherently a policy choice, it should be informed by considerations of cost, efficiency and effectiveness, as well as impact on citizens.

In this regard, Step 97 of the Plan of the Nation explicitly refers to enhancing citizens' capacity to participate in the decision-making processes as one of the drivers of the decentralisation reforms. However, what is less clear is the degree to which responsiveness to citizens' needs is factored into the decision making about the functions to be transferred (President of the Republic of Kazakhstan, 2015).

In accordance with the Plan of the Nation, in 2015 the Law “On Public Councils” required each government agency, including those at the regional and local level, to establish a public council as an advisory and consultative body with participation of the civil society. At the lowest level of government the general meeting of the citizens can play a role of the public council.

Analysis of some of the web-pages of the public councils at the regional level (Astana city, Karaganda region, East-Kazakhstan region, South-Kazakhstan region) shows that the public councils are active and perform the functions prescribed by the Law, such as discussion of the regulatory and budget decisions, reports of the regional officials, appeals of the citizens and firms, etc. Yet, the provided information rarely reveals the actual content of the discussion, which makes unclear the extent to which public councils had an opportunity to meaningfully engage in decision-making processes. Importantly, as noted in the OECD Open Government Review of Kazakhstan (OECD, 2017), the public councils should serve as a link between the authorities and the community, not as a replacement for the citizen participation. As such, while important progress is being made,

further, more in-depth efforts to deepen citizen engagement would be beneficial for Kazakhstan to fully align with the OECD guidelines on open and inclusive policy-making and practices in OECD member countries, including at the local level.

Recommendation

Further develop formal mechanisms to enable active and meaningful citizen participation in the decentralisation process and local decision making. These mechanisms should be comprehensive and include requirements on the full-scope information necessary for decision-making to be provided to the citizens on the regular basis, the feedback mechanisms, development of functions of the government agencies related to increasing responsiveness to citizens (accountability, public communication, transparency of the decision-making).

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Chapter 2

Legal and institutional frameworks for local government in Kazakhstan

This chapter addresses the existing framework for decision-making and autonomy of local governments, which has been dominated by the central government. It reviews the legal and institutional factors surrounding decentralisation of government responsibilities and questions the capacity of recent reforms to lead to more targeted and flexible distribution of mandates and functions among tiers of government.

Local government in Kazakhstan is founded on a constitutional and legal basis

Historically, local government was designed to be subordinate to national executive authority

Kazakhstan's system of government has retained many of the main features from its pre-independence period. In this system, the central government sits at the pinnacle, with power cascading down to levels of government organised on a territorial basis: *oblast* (region), *raion* (district) and small local administrations such as cities, towns and villages. Organised in this way, the system of government concentrates powers at the level of the executive. As will be discussed below, this model has also greatly influenced the form of local executive bodies and their political leadership (OECD, 2014a: 64-66; Makhmutova, 2006). Following independence, Kazakhstan went through several stages of reform that determined the current functions and responsibilities of its four levels of government (Linn, 2014).¹

One of the first measures that Kazakhstan introduced following its independence was the amendment of the Law on Local Self-Government and Local Soviets in the Kazakh Soviet Socialist Republic (SSR). This law established the principle of differentiation between the functions and powers of representative and executive bodies. This was followed by the Decree on Improving the Organisation and Activities of Public Administration Bodies under the Conditions of Economic Reform. This decree established the structure of the executive administration in Kazakhstan from the President as Head of State down to heads of local executive bodies. The decree also set out the responsibilities of the Cabinet of Ministers in the strategic supervision of all executive power, including over local government (Makhmutova, 2006: 276).

Initially, Kazakhstan's first post-independence Constitution, adopted in 1993, and the Law on Local Representative and Executive Bodies, adopted on 10 December 1993, maintained the several features of local government that existed under the Kazakh SSR. This included retaining decision-making powers of local representative bodies within their areas of competence. These constitutional and legal changes also served to reduce the autonomy of local governments by changing the role of *akims* by making them the local representatives of the President and the Government (Kadyrzhanov, 2005: 3; Makhmutova, 2006: 276-277). While the later reforms gradually implemented in order to increase the autonomy of the local government and their accountability to the citizens, further efforts would be important in this regard to ensure that local executive bodies are

primarily accountable to local interests. This became the basis for the powers of local governments that were incorporated into Kazakhstan's second Constitution, enacted in 1995. Section VIII, which establishes the system of government for Kazakhstan, addresses the roles, responsibilities, powers and institutions of local government in Articles 85-89 (Box 2.1).

At the legislative level the concept of local government changed in 2009, when the local governments (both the akims and maslikhats) were officially re-defined as local government and self-government agencies, although the akims are still officially representing the President of the country (1995 Constitution of Kazakhstan, Article 87, clause 3). Kazakhstan's authorities are already taking active steps to strengthen the autonomy of local government through the reforms aimed at fiscal and functional decentralization, accountability to the citizens and various institutional changes. Further efforts would be beneficial to achieve the full-fledged transformation of the local government.

**Box 2.1. Constitution of the Republic of Kazakhstan: Section VIII.
Local public administration and self-government**

Article 85

Local public administration shall be exercised by local representative and executive bodies which are responsible for the state of affairs of the respective territory.

Article 86

1. Local representative bodies – *maslikhats* – shall express the will of the population of respective administrative-territorial units and with regard to the common public interests shall determine the measures needed for its realisation, and control their implementation.
2. *Maslikhats* shall be elected by the population on the basis of universal, equal suffrage under secret ballot for a four-year term.
3. A deputy of a *maslikhats* may be a citizen of the Republic of Kazakhstan who has reached 20 years of age. A citizen of the republic may be a deputy of only one *maslikhats*.
4. The jurisdiction of *maslikhats* shall include:
 1. approval of plans, economic and social programmes for the development of the territory, local budget and reports of their performance
 2. decision of issues of local administrative-territorial organisation in their jurisdiction

**Box 2.1. Constitution of the Republic of Kazakhstan: Section VIII.
Local public administration and self-government (cont.)**

3. consideration of reports by heads of local executive bodies on the issues delegated by law to the jurisdiction of a *maslikhats*
4. formation of standing commissions and other working bodies of a *maslikhats*, hearing reports about their activity, decision of other issues connected with the organisation of the work of a *maslikhats*
5. exercise other authorities for ensuring the rights and legitimate interests of citizens in accordance with the legislation of the republic.
5. The powers of a *maslikhats* shall be prematurely terminated by the Senate on the grounds and according to the procedure established by law as well as in the case of adoption of a decision for self-dissolution.
6. The jurisdiction of *maslikhats*, procedure of their organisation and activity, and legal status of their deputies shall be established by law.

Article 87

1. Local executive bodies shall be a part of a unified system of the executive bodies of the Republic of Kazakhstan, and ensure conduct of the general state policy of the executive power in conjunction with the interests and development needs of the respective territory.
2. The jurisdiction of local executive bodies shall include:
 1. development of draft plans, economic and social programmes for development of the territory, local budget and provision of their realisation
 2. management of public property
 3. appointment to and release from office of the heads of local executive bodies, resolution of other issues connected with the organisation of the work of local executive bodies
 4. exercise other powers delegated to local executive bodies by the legislation of the republic in the interests of the local public administration.
3. A local executive body shall be headed by an *akim* of the respective administrative-territorial unit who is a representative of the President and the Government of the Republic.
4. *Akims* of the *oblasts*, major cities and the capital shall be appointed to office by the President of the Republic on the recommendation of the Prime Minister. *Akims* of other administrative-territorial units shall be appointed or elected to office in the presidential order. The President of the

**Box 2.1. Constitution of the Republic of Kazakhstan: Section VIII.
Local public administration and self-government (cont.)**

Republic shall have the right to release *akims* from office at his/her own discretion.

5. A *maslikhats* shall have the right by two-thirds of votes from the total number of its deputies to express non-confidence in the *akim* and raise the issue of his release from office respectively before the President of the Republic or a senior *akim*. The powers of *akims* of the *oblasts*, the major cities and the capital shall terminate when a newly elected President assumes office.
6. The jurisdiction of local executive bodies, organisation and procedure of their activity shall be established by law.

Article 88

1. *Maslikhats* shall adopt decisions on the issues of their jurisdiction; *akims* shall adopt decisions and resolutions which are binding on the territory of the respective administrative-territorial unit.
2. Drafts of decisions of *maslikhats* envisioning a reduction of local budgetary revenues or an increase of local budgetary expenditures may be submitted for consideration only with a positive resolution of the *akim*.
3. Decisions of *maslikhats* not corresponding to the Constitution and the laws of the Republic of Kazakhstan may be annulled by legal process.
4. Decisions and resolutions of *akims* may be respectively annulled by the President, the government of the Republic of Kazakhstan or a senior *akim*, as well as by legal process.

Article 89

1. In the Republic of Kazakhstan, local self-government which ensures that the issues of local significance shall be resolved independently by the population shall be recognised.
2. Local self-government shall be exercised by the population directly through elections as well as through elective and other bodies of local self-administration in rural and urban local communities covering the territories on which groups of the population live compactly.
3. The procedure or organisation and activity of the bodies of local self-government shall be determined by citizens themselves within the limits of their powers established by law.
4. The independence of the bodies of local self-government shall be guaranteed within the limits of their powers established by law.

Source: 1995 Constitution of Kazakhstan.

Taken together, these articles of the 1995 Constitution reaffirmed the hierarchical organisation of the state and the subordination of local executive bodies to the central government with local executive bodies as extensions of the central government. Local executive bodies only exercise those powers and responsibilities that the central government grants to them.

The exercise of these powers by the central government over Kazakhstan's local government is not atypical of most unitary states. For example, both France and Japan provide in their constitutions for the powers of the local government to be subject to definition in laws (Box 2.2). In the federal system in Germany, the principle of local self-government is also enshrined in the Constitution.

Box 2.2. Powers over local government: Constitutional provisions in France, Germany and Japan

France, Title XII – on Territorial Communities (official translation)

In the conditions provided for by statute, these communities shall be self-governing through elected councils and shall have power to make regulations for matters coming within their jurisdiction.

Germany, Basic Law for the Federal Republic of Germany (*Grundgesetz*), Article 28(2)

Municipalities must be guaranteed the right to regulate all local affairs on their own responsibility, within the limits prescribed by the laws. Within the limits of their functions designated by law, associations of municipalities shall also have the right of self-government according to the law. The guarantee of self-government shall extend to the bases of financial autonomy; these bases shall include the right of municipalities to a source of tax revenues based upon economic ability and the right to establish the rates at which these sources shall be taxed.

Japan, Chapter VIII, Local Self-Government

Article 92: Regulations concerning the organisation and operations of local public entities shall be fixed by law in accordance with the principle of local autonomy.

Sources: Conseil Constitutionnel. (n.d.), Constitution du 4 octobre 1958, www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/la-constitution/la-constitution-du-4-octobre-1958/texte-integral-de-la-constitution-du-4-octobre-1958-en-vigueur.5074.html; www.gesetze-im-internet.de/englisch_gg; Prime Minister of Japan and His Cabinet (n.d.), The Constitution of Japan, http://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html.

However, one significant difference between Kazakhstan and OECD countries concerns the role of local executives as representatives of local communities. In Kazakhstan, *akims* of the regions (oblasts and two major cities) are foremost representatives of the President and are appointed by his/her office. Though similar in some regards to the position of France's prefect (Association des administrateurs territoriaux de France, 2016) or mayors in the Netherlands (CEMR, 2014), the powers of *akims* are more extensive than either of these examples. Furthermore, in the case of the Netherlands, the royal appointment of mayors is made on the advice of local elected councils. In other OECD countries with unitary forms of government, local executives are elected at the local level, generally by direct election by local residents. This is notably the case in Japan and the Netherlands (Box 2.3).

Box 2.3. Local chief executives: Japan and the Netherlands

Japan, Chapter VIII, Local Self-Government

Article 93: The local public entities shall establish assemblies as their deliberative organs, in accordance with the law.

The chief executive officers of all local public entities, the members of their assemblies and such other local officials as may be determined by law shall be elected by direct popular vote within their several communities.

The Netherlands

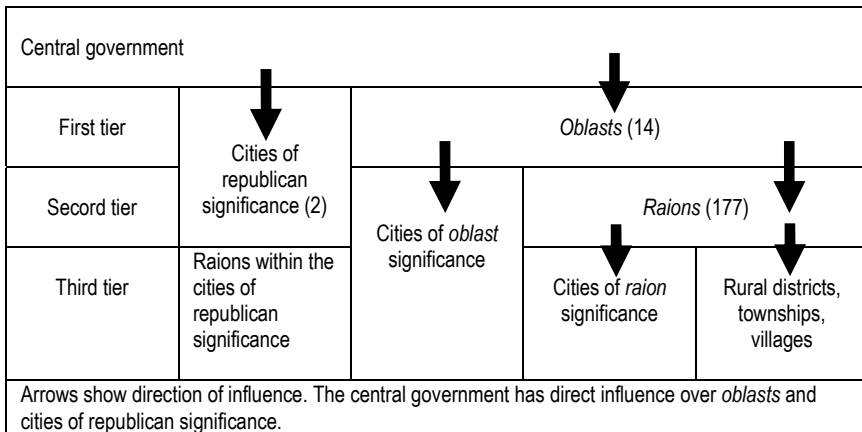
“The mayor (*burgemeester*) chairs the local council and the college of mayor and aldermen. The mayor is formally appointed for a six-year mandate by the national government at the proposal of the local council. The mayor has the power to vote within the college of mayor and aldermen and his/her vote can be decisive”.

Sources: Prime Minister of Japan and His Cabinet (n.d.), The Constitution of Japan, http://japan.kantei.go.jp/constitution_and_government_of_japan/constitution_e.html; CEMR (2014), "Netherlands", www.ccre.org/en/pays/view/33.

Another feature of Kazakhstan's system of local government is the subordination of lower levels of government to the level immediately above. As shown in Table 2.1, below the central government, each tier of government is subordinated to the tier above it. This arrangement consolidates central control over local decisions and minimises the accountability of local executive bodies. This is amply illustrated through the cascading appointments of local executive body leadership from the President on down to the local level, resulting in what Linn describes as a

“dominant vertical” (Linn, 2014: 15). This cascade of influence of one level of government over another has few parallels among OECD countries. For example, in the case of France, each administrative-territorial division below the national government has specific areas of responsibilities defined in the legislation which, in certain areas, may be shared. Local authorities are therefore empowered to act within their defined areas of responsibility and are ultimately accountable for the actions taken within their fields (Association des administrateurs territoriaux de France, 2016).

Table 2.1. Territorial structure of subnational governments in Kazakhstan



Source: OECD adapted from Coulibaly, S. et al. (2012), *Eurasian Cities: New Realities Along the Silk Road, Eastern Europe and Central Asia Report*.

Central government empowered to define the division of lower tiers of government

As discussed above, Kazakhstan’s present administrative and territorial divisions retained most of the features of the Soviet period. At the subnational level, Kazakhstan is divided into 14 *oblasts* (regions), 2 cities with special status (the former capital Almaty and the current capital Astana) due to their “republican significance”. The *oblasts* are the primary authorities at the regional level. *Oblasts* are further divided into smaller governing units, *raions* (districts) and the cities of oblast significance (the cities with more than 50 thousand inhabitants). The next (lowest) level of the government is composed of the cities of raion significance (from 10 thousand to 50 thousand inhabitants and well-developed infrastructure), districts within the larger cities, rural districts, townships and villages. The division is prescribed by the Law “On administrative-territorial structure of the Republic of Kazakhstan” (1993). The legislative powers to change the

administrative organisation of Kazakhstan’s local government is similar to that exercised by the national government of other OECD countries with unitary governments. For example, in the case of France, Japan and the Netherlands this power is constitutionally prescribed (Box 2.4) (Ministry of Interior and Kingdom Relations, 2008; Conseil Constitutionnel, n.d.; Prime Minister of Japan and His Cabinet, n.d.).

Box 2.4. Central government legislative powers over the organisation of local government

France, Constitution (1958) Article 72 (excerpt)

The territorial communities of the republic shall be the communes, the departments, the regions, the special status communities and the overseas territorial communities to which Article 74 applies. Any other territorial community created, if need be, to replace one or more communities provided for by this paragraph shall be created by statute.

The Netherlands, Constitution, Article 123 (excerpt)

1. Provinces and municipalities may be dissolved and new ones established by act of parliament.
2. Revisions to provincial and municipal boundaries shall be regulated by act of parliament.

Sources: Ministry of the Interior and Kingdom Relations (2008), Constitution of the Kingdom of the Netherlands 2008, Article 123, <https://www.government.nl/documents/regulations/2012/10/18/the-constitution-of-the-kingdom-of-the-netherlands-2008>; Conseil Constitutionnel. (n.d.), Constitution du 4 octobre 1958, www.conseil-constitutionnel.fr/conseil-constitutionnel/francais/la-constitution/la-constitution-du-4-octobre-1958/texte-integral-de-la-constitution-du-4-octobre-1958-en-vigueur.5074.html.

For the most part, Kazakhstan’s administrative and territorial divisions have experienced very few changes in recent years. As shown in Table 2.2, the principal change has been a reduction in the number of villages through their amalgamation with towns at the county and rural settlement level. This leads to the conclusion that Kazakhstan’s approach to the organisation of local government has been measured, at least insofar as this has impacted on the administrative-territorial organisation of the country.

Table 2.2. **Changes in Kazakhstan’s territorial and administrative divisions, 2006-15**

	Oblasts	Raions	Cities	Rural districts		Rural settlements	
				Towns	Villages	Townships	Villages
Kazakhstan 2015	14	177	87	161	2 301	167	6 715
Kazakhstan 2006	14	168	86	161	2 336	167	7 262
Change	0	+9	+1	0	-35	0	-547

Sources: OECD figures based on Ministry of National Economy (2015), “Methodology for conducting sectoral (agency-level) functional review of the activities of public bodies”, draft internal working document; Bhuiyan, S.H. (2010), Decentralization and local governance in Kazakhstan”, <http://dx.doi.org/10.1080/01900692.2010.514445>.

By contrast, OECD countries have been more resolute in their pursuit of governmental efficiency and effective gains through the reorganisation of local governments. For example, in 2014 France approved legislation to reduce the number of metropolitan regions (regions) from 22 to 13. The reorganisation took effect on 1 January 2016. This reorganisation of regions was also accompanied by changes in their areas of responsibility. Specifically, the French reform sought to clarify areas of regional responsibility by reducing or eliminating areas of overlap or shared responsibilities with the goal of increasing responsiveness to citizens and improving the efficiency of the public administration (Association des administrateurs territoriaux de France, 2016; French Government, 2016). The similarity between these objectives and those enunciated under Step 97 of Plan of the Nation show Kazakhstan to be moving forward along a path similar to that of France. However, where France and Kazakhstan differ is in the speed with which France was able to proceed in its reforms (Box 2.5).

Box 2.5. France: Reorganisation of regions and regional councils

Prior to 31 December 2015 France was divided into 27 administrative regions (*régions*), 22 of which are in metropolitan France and 5 are overseas. The mainland regions and Corsica are each further subdivided into departments (*départements*), ranging in number from 2 to 13 per region for metropolitan France (the mainland and Corsica).

In June 2014, the French parliament (the National Assembly and the Senate) passed a law that reduced the number of regions in metropolitan France from 22 to 13. The map of the new regions took effect on 1 January 2016.

Sources: Association des administrateurs territoriaux de France (2016), “The French experience of decentralization”; French Government (2016), “Réformer l’organisation territoriale: La réforme territoriale”, www.gouvernement.fr/action/la-reforme-territoriale.

Administrative-territorial fragmentation appears to be aligned with that of OECD countries

There is an active debate concerning the degree to which countries may be over-governed due to the number of the governments below the national level (de Vries and Sobis, 2013; Wollman, 2011). Though several countries have proceeded with reforms of local governments, such as France's reorganisation of its regions, as the experience of the OECD and European countries shows, there are no international benchmarks to enable decision makers to determine the ideal number of government bodies below the national level (Swianiewicz, 2015). In the end, these decisions are influenced by political considerations, informed by other factors, such as a country's resources and capacity to maintain and support multiple institutions.

One way of approaching this question is by comparing countries in terms of their number of administrative and territorial units in relation to their population. Table 2.3 presents a breakdown of Kazakhstan's lower level administrative and territorial units. In Kazakhstan, as in other countries, these divisions reflect traditional and historical geographic regions. As noted above, the number of these units changed little between 2006 and 2015, with the exception of a modest reduction at the lower tier of government (villages) and the addition of nine *raions* and one city.

Table 2.3. **Administrative and territorial units in Kazakhstan, 2016**

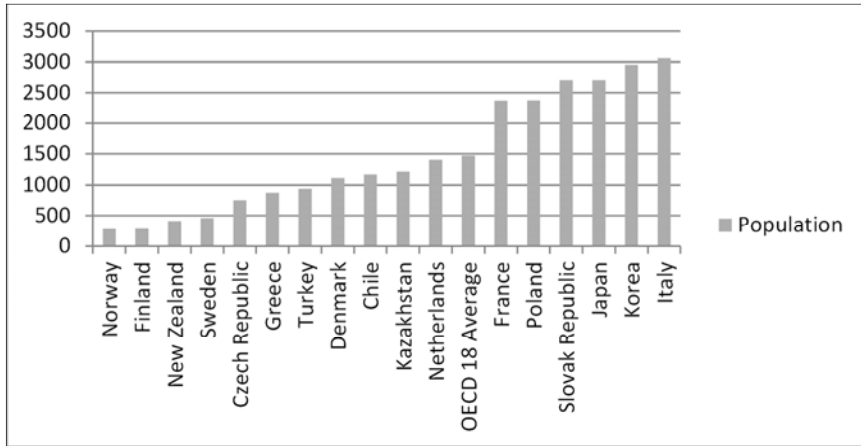
Territory	Oblasts	Raions	Cities and towns			Rural districts		Other rural settlements	
			Total	Subordinate to <i>oblasts</i>	Subordinate to <i>raions</i>	Towns	Villages	Towns	Villages
Kazakhstan	14	177	87	38	47	161	2 301	167	6 715
Akmolinskaya	1	17	10	2	8	13	203	14	614
Aktubinskaya	1	12	8	1	7	2	142	2	372
Almatinskaya	1	16	10	3	7	14	247	15	731
Atyrauskaya	1	7	2	1	1	11	71	11	165
East Kazakhstan	1	15	10	4	6	24	244	25	752
Zhambylskaya	1	10	4	1	3	10	153	12	373
West Kazakhstan	1	12	2	1	1	5	148	5	443
Karagandinskaya	1	11	11	9	2	38	187	39	421
Kostanaiskaya	1	16	5	4	1	8	212	8	592
Kyzylordinskaya	1	7	4	2	2	12	142	12	262
Mangystauskaya	1	5	3	2	1	5	45	5	61
Pavlodarskaya	1	10	3	3	x	6	139	6	401
North Kazakhstan	1	13	5	1	4	x	190	x	689
South Kazakhstan	1	15	8	4	4	11	178	11	839
Almaty city	1	8	1	x	x	x	x	x	x
Astana city	1	3	1	x	x	2	x	x	x

Note: x: not applicable.

Source: Information provided by the Ministry of National Economy.

As Figure 2.1 shows, Kazakhstan sits close to the OECD average in the number of unitary forms of government. Kazakhstan contrasts with the Nordic countries, which feature relatively small population per administrative unit and the Central European and Asian models, which feature relatively large populations per unit. Moreover, Kazakhstan is at about the same level as two countries with similar populations: Chile at 15 regional units and the Netherlands with 12. As such, the territorial division in Kazakhstan appears to be aligned with practices in OECD member countries.

Figure 2.1. **Kazakhstan in comparison: Average population by regional or state unit**



Sources: OECD calculations based on OECD (2015a), “Subnational governments in OECD countries: Key data, 2015 edition”, www.oecd.org/gov/regional-policy/Subnational-governments-in-OECD-Countries-Key-Data-2015.pdf and information provided by the Ministry of National Economy.

The scope of local government responsibilities are clearly defined

Across the OECD, local governments are increasingly involved in the delivery of key services that are fundamental to citizens’ quality of life. Though the services provided by local governments vary from country to country, they are for the most part specified in law. The attribution of specific responsibilities to each tier of government, central and local, is in keeping with a number of internationally recognised principles. These principles include accountability and transparency (Commonwealth of Local Government Forum, 2005; Council of Europe, 1985). In addition, this contributes to administrative efficiency by minimising the risks of overlaps and duplication.

The roles and responsibilities of local government in most OECD countries include those services which are closest to the citizen. This includes proximity services, but also in some countries responsibilities for social and economic well-being, such as education, health and social welfare services (Shah and Shah, 2006).

Kazakhstan's local governments are important actors in public service provision

The responses to an OECD questionnaire² completed by *oblasts* and the Ministry of National Economy show that in the case of Kazakhstan, the roles and responsibilities of local governments are far more extensive. As can be expected from a unitary and centralised system of government, a significant number of local governments' roles and responsibilities were concerned with reporting and control. The questionnaire showed that local governments have responsibilities in a broad array of areas which include services in the areas of social, economic and environment issues, as well as public protection and safety. In total, local executive bodies exercised authority over 68 different areas which touch on matters such as: environmental protection, prevention of natural and technological accidents, fire protection, public sanitation, public order and security, local economic and social development, culture, tourism, sports, maintenance of leisure facilities, communal services (e.g. water, gas, electricity, heat supply, waste management, sewerage, engineering infrastructures), construction, maintenance and repair of local roads, public transport, support of employment and job creation, and development of small and medium-sized enterprises. In Kazakhstan, local governments are further responsible for providing social services and social protection programmes (e.g. pensions, unemployment benefits, maternity benefits, veterans, child benefits). These services are funded by the national budget though delivery is administered by the local government (Urinboyev, 2015: 181-182; OECD, 2015c, 2015d).

Two examples of areas of local government involvement in Kazakhstan are the financing and provision of healthcare services and education. While the Ministry of Health is responsible for national health policy, the provision and financing of healthcare services has been devolved to the health departments of *oblasts*. The *oblasts* are responsible for the administration of health services and running local service providers such as hospitals. Legislation also enables them to participate in the decision making concerning the legal structuring of healthcare institutions (Katsaga et al., 2012: 16-24). Local governments are also responsible for financing education in Kazakhstan. However, the provision of schooling reflects the diversity within the Kazakh system with different types of schools co-existing and responsibility for them divided between the national and regional governments and, in some cases, by other ministries (OECD, 2014c: 32). However, the role of local governments in the area of education is limited principally to the expenditures associated with the maintenance of schools (teachers' salaries, building maintenance), whereas the central government, through the Ministry of Education, is responsible for policy

direction, oversight and administrative control (Urinboyev, 2015; Open Society Institute LGI, 2002).

Kazakhstan's extensive legal framework for local government may contribute to systemic rigidities

Most systems of government, whether unitary or federal, feature some form of local government. For example, all 35 member countries of the OECD have local government institutions, though the place and role of local government in those systems vary markedly. In some countries, the existence of local government is constitutionally recognised, whereas in other countries the existence of local government is legally defined and, therefore, more precarious. However, constitutional recognition may not, in fact, grant much in the way of autonomy to this level of government. Much depends on the nature of the constitutional recognition (OECD, 2015a; Steytler, 2005).

Across the globe, local governments are engaged in a broad range of functions and powers, though, as discussed above, there is no single international approach to the allocation of these functions or powers between levels of government. From a governance standpoint, it is important to ensure that the powers are concurrent. Poor delineation of powers may lead to friction in intergovernmental relations. This underscores the need for both clarity of roles and establishing means of resolving disagreements when they occur (Steytler, 2005).

Since its independence, Kazakhstan's governance structures have experienced several reforms and restructuring of the institutional composition of the state. These changes have been introduced in keeping with Kazakhstan's evolving political economy as well as the refinement of its development goals. However, over time some further reforms were introduced and at times previous reforms countermanded. More recently, reforms introduced as part of the Plan of the Nation (100 Steps initiative) have led to further systemic change. In short, since independence, local governance in Kazakhstan can be said to be in a near constant state of transformation. This is illustrated by the number of legal instruments adopted since 2001 concerned with local government (Table 2.4).

Table 2.4. **Local governance legal framework, 2001-15**

Year	Legal instrument
2001	Law (23 January 2001) No. 148 About Local Government and Self-government in the Republic of Kazakhstan
2004	The first Budget Code of the Republic of Kazakhstan (enacted in 2005, terminated in 2008)
2004	Law (20 December 2004) No. 13-III on Introducing Amendments and Addenda to Some Legislative Acts of the Republic of Kazakhstan on the Issues of Delineation of Powers between the Levels of Public Administration and Fiscal Relations
2008	Budget Code of the Republic of Kazakhstan
2009	Law (9 February 2009) No. 126-IV on Introducing Amendments and Addenda to Some Legislative Acts of Kazakhstan on the Issues of Local Government and Self-Government
2012	Decree of the President of the Republic of Kazakhstan (28 November 2012) No. 438 on Approval of the Concept of Development of Local Government in the Republic of Kazakhstan
2013	Decree of the Government of the Republic of Kazakhstan (29 April 2013) No. 411 on Some Issues of Limits on the Number of Staff of the Ministries, Other Central and Local Executive Bodies and the Abolition of Some State Institutions
2013	Decree of the Government of the Republic of Kazakhstan (18 June 2013) No. 608 on Approval of the Basic Structure of the Local Government of the Republic of Kazakhstan and the Repeal of Certain Decisions of the Government of the Republic of Kazakhstan
	Law (13 June 2013) No. 102-V on Introducing Amendments and Addenda to Some Legislative Acts of Kazakhstan on the Delimitation of Powers between the Organs of Government
2014	Decree of the President of the Republic of Kazakhstan (25 August 2014) No. 898 on Measures on the Division of Powers between Levels of Government of the Republic of Kazakhstan
2015	Draft Law (December 2015) on Introduction of Changes and Additions to Some Legislative Acts of the Republic of Kazakhstan on the Issues of Delineation of Powers between the Levels of Public Administration

Source: OECD based on public sources and data provided by the Ministry of National Economy.

However, this level of legislative activity also highlights a desire on the part of Kazakhstan to define a clear role for local government in providing essential services to the population, though this goal may have been lost in the sheer level of legislative activity concerned with local government. As a result, the distribution of functions remains fluid in several areas and creates uncertainty with regard to ultimate responsibility and accountability in other areas due to ambiguity in legislation.

However, while granting power and responsibilities to the *akims* and *akimats*, the law also established a framework of obligations and limitations on their actions. Thus local executives were to act in accordance with national policies and adhere to standards of operation defined by the central government in broad areas of social, economic and administrative policy (Ministry of Justice of the Republic of Kazakhstan, 2001; Makhmutova, 2006).

In December 2015, a new draft Law on Amendments and Additions to Some Legislative Acts of the Republic of Kazakhstan on the Division of Powers between Levels of Government was introduced. The draft law flows from the Strategic Development Plan of the Republic of Kazakhstan 2020 and Presidential Decree No. 898 (25 August 2014) on Measures for the Division of Powers between Levels of Government of the Republic of Kazakhstan.

The decree grants the following responsibilities to regional governments:

- implementation of regulatory, executive and supervisory functions, providing solutions to problems of local significance within the respective administrative-territorial unit
- provision of national policy executive power in conjunction with the interests and development needs of the respective territory
- adoption of regulations, to ensure the solution to problems of local significance and realisation of state policy in the relevant territory
- management of public property
- development of plans, economic and social development programmes of the territory, local budget and provision of their realisation
- monitoring and supervision of the activities of individuals and entities within their territory
- participate in providing services for the protection of public order and security in the territory
- the provision of public services of local importance
- other powers delegated to local executive bodies by the legislation of the Republic of Kazakhstan (OECD, 2015b).

Taken together, these responsibilities establish the two objectives to be pursued through the reforms: eliminating overlaps in the distribution of powers between the government and the ministries, departments and local executive bodies; and improving the independence of the heads of central and local executive bodies. Ultimately, these changes are expected to increase public confidence in government (National Modernization Commission, 2015).

Once adopted the draft law would transfer eight functions from the central executive bodies to local executives. At the same time, the draft

suggests 161 amendments to the legislative acts to address conflicts in legalisation and gaps, which hampered the ability of local executive bodies to fulfil their roles. The enunciated legal and socio-economic rationales for these measures are principally to streamline the administration while enhancing citizens' capacity to participate in decision making (National Modernization Commission, 2015).

Another factor is the impact that this state of constant change and reform has had on the efficiency and effectiveness of local governments. These too-frequent changes temporarily disrupt the affected administrations, induce material costs and can generate losses in organisational culture, motivation and productivity. In short, changes to legal instruments concerned with local government have to be considered only when their necessity and utility have been clearly established, and even when that is the case, have to be implemented with caution in order to improve their chances of success and to minimise their costs. A similar finding was made concerning the frequency of machinery of government changes in the OECD's *Review of Central Administration* (OECD, 2014b).

Recommendation

Ensure ongoing assessments of the necessity and impact of legal and policy changes affecting local governments in Kazakhstan. This assessment should be based on outcomes-based evaluations of functional transfers and their impacts on local governments and citizens. Local governments, civil society and ordinary citizens should be involved as participants in this process not only through opinion surveys, but also through a wide range of mechanisms, such as public discussions, analytical assessments (performed by the civil society organizations), and other forms of communication.

This constant legislative and policy activity contributes to systemic rigidities by hindering the capacity of officials at the local and central government levels to do their jobs. This results from the near constant state of flux which contributes to lack of clarity about roles and responsibilities, with impacts on levels of financial and human resources and administrative organisation. Confronted by this situation, needed decisions and actions are held up. For example, the OECD questionnaire brings to light the tendency of officials and institutions to seek resolutions to problems through recourse to interpretation of laws. While this may be appropriate in many circumstances, it suggests a mode of practice where the capacity of officials to seek resolve is stymied by concerns with the application of legislation.

Another factor to consider is the degree to which Kazakhstan's governance institutions are able to effectively assimilate the reforms to local

government that are being brought forward. The experience of OECD countries suggests that reforms are usually effective when changes have been culturally assimilated by the organisations. Therefore, even where strong political support exists for reforms, organisations have a limited capacity to assimilate the reforms, evaluate their impacts, correct the diversions and learn from their experiences. Systemic stability is therefore needed to ensure that the expected outcomes are met.

For most countries with a multi-level governance structure, the potential risk that could hinder the reforms is the lack of co-operation among key stakeholders. However, in the case of a country such as Kazakhstan, whose goal is decentralisation, the risks may be related to the official structure and slow pace, both of which are trapped by the constant implementation of new projects and organisational charts. As a result, a mix of reform fatigue and lack of outcomes could disappoint the most active and creative stakeholders.

This high degree of legislative activity also points to the preponderant role of the central government over the division of responsibilities between levels of government (OECD, 2015b). None of these legislative and policy changes have thus significantly shifted the balance of influence away from the central government. As noted above, despite the process of decentralisation, local governments play the role of implementation bodies of central government policy. Whereas in several OECD countries local governments are granted authority over certain areas of policy, including the right to bring forth legal and policy measures, this is not the case in Kazakhstan.

At the same time, the current decentralisation process in Kazakhstan, informed by the process of functional review, provides a major opportunity for redefining roles and responsibilities in line with the principle of bringing services closer to the citizen, which makes policy, economic and administrative sense. Several OECD countries can serve to inspire this process. For example, France and Poland provide models of functional assignment which reflect this principle (Box 2.6).

Box 2.6. Allocation of responsibilities to lower tiers of government: France, Germany and Poland

France

In France's administrative system, each tier of government below the national government is granted specific responsibilities which are defined in legislation.

The responsibilities of regions include:

- Regional economic planning and policy, industrial development.
- Professional education and high schools (but not the management of the teachers and the school programmes), professional education for the unemployed.
- Transportation outside of cities (interurban buses, regional trains, school buses for high schools). Some regions have also been assigned responsibility for local ports and airports.
- Environmental protection with some special plans organisation.

The responsibilities of departments include:

- intercity roads (routes départementales)
- some social policies and welfare allowances
- secondary (or middle/junior high) school (except teaching and school programmes/curriculums).

In addition, regions and departments share responsibilities over:

- culture
- sport
- tourism
- regional languages.

Communes (municipal governments)¹ are responsible for almost all matters regarding municipal affairs, including:

- primary schools and pre-school
- local roads
- local police and public order
- urbanism

**Box 2.6. Allocation of responsibilities to lower tiers of government:
France, Germany and Poland (cont.)**

- local ports and canals
- housing
- cemeteries
- culture and sport facilities and incentives policies
- local social services
- local transportation
- gas and electricity networks.

Poland

In Poland's administrative system, each tier of government below the national government is granted specific responsibilities which are defined in legislation.

The responsibilities of districts include:

- secondary education
- healthcare (districts manage only hospital and polyclinics buildings, while current expenditures are covered by separate health authorities)
- roads of district importance
- several social services
- labour offices (coping with unemployment)
- protection against natural disasters
- consumer protection
- land surveying
- various inspections such as sanitary, building, etc.

The responsibilities of municipalities include:

- pre-school and primary education (for children up to 15 years old)
- “communal services” including: water and sewage, solid waste collection and disposal, street lighting, local parks and green areas, central heating
- local roads and streets maintenance

**Box 2.6. Allocation of responsibilities to lower tiers of government:
France, Germany and Poland (cont.)**

- local public transport in cities
- communal housing
- voluntary fire brigades
- various social services, including social benefits for the poor
- local culture (including local libraries and leisure centres)
- local physical (spatial) planning.

Germany

In Germany's administrative system, local authority administrations make up the third pillar of the administration. Their tasks include above all the administration of town planning, road building and housing, social and health services, and public facilities (swimming pools, libraries, day-care centres and sports facilities). Local authorities are also responsible for providing local public transport and refuse disposal and for ensuring the supply of water, gas, electricity and community heating. These utilities are largely operated as enterprises organised under private law.

Sources: Association des administrateurs territoriaux de France (2016), "The French experience of decentralization"; Swianiewicz; Federal Ministry of the Interior (2014), "The federal public service: An attractive and modern employer", https://www.bmi.bund.de/SharedDocs/Downloads/EN/Broschueren/2014/federal-public-service.pdf?__blob=publicationFile.

Based on these OECD experiences, it will also be important for Kazakhstan to use the current process of decentralisation as an opportunity to determine the functions best suited to local government delivery. For example, as part of the process of decentralization, the Ministry of National Economy advised that new functions will be transferred to *akimats*. Two functions stand out as not in keeping with the typical OECD division of responsibilities: land use for national security purposes and monitoring of seed resources. Though the intent of this policy assessment is not to be prescriptive about the functions that Kazakhstan should allocate to local governments, it is nonetheless useful to note the principle of transferring to local governments only those functions which will matter the most to citizens and local communities.

Recommendations

Deepen the integration of economic, policy and administrative considerations in assigning responsibilities to local governments during the ongoing functional review and decentralisation, which should be delivered closest to citizens.

Consider refining the process of functional review to ensure that it includes effectiveness and efficiency of service delivery at the local level as a principal consideration.

Kazakhstan 2050 establishes the local self-government concept

One of the main changes affecting local government in Kazakhstan was the absence of legislative base for the local self-government, though the concept was prescribed in the Constitution (Kadyrzhanov, 2005: 3; Makhmutova, 2006: 276-277). In 2009, the local administrations were formally redefined as local government and self-government units, but this change affected only the legal definition, not the essential institutional structure of the governance at the local level.

On 28 November 2012, the Concept of Development of Local Self-Government in the Republic of Kazakhstan was approved as part of a key element contained within Kazakhstan’s new development strategy plan, Kazakhstan 2050. The strategy included plans for economic, social and political reforms with the aim of placing Kazakhstan among the 30 most advanced economies by 2050.

Several of the priorities outlined in the strategy will impact the local level through decentralisation and empowerment of self-governance, which are seen as a driver of local investment attractiveness. Under the theme of “Strengthening Statehood and the Development of Democracy”, the strategy calls for four measures:

1. Gradual decentralisation of power through the division of responsibilities and powers between the central and regional governments.
2. Development of local self-governance whereby citizens should be directly involved in the decision-making process and implementation.
3. Election of rural *akims* at the level of *auls*. This would be accompanied by new powers to enhance the role of *aul*-level *akims* in village affairs.

4. Professionalising the public administration (state apparatus) (Kazakhstan 2050, 2015).

Foremost, the strategy called for concrete measures to be implemented to transfer responsibilities from the central government to the regions, with the aim to strengthen local executive authorities (Kazakhstan 2050, 2015). However, the strategy included important caveats: decentralisation was to be pursued to bring qualitative change in the state management system without weakening of the power of the central government nor decreasing the power of the national executive level (President and Cabinet) (Kazakhstan 2050, 2015).

Concept of self-government aims to increase citizen participation

A key part of the strategy was the Local Self-Governance Development Concept, which introduced a two-stage process toward increasing local democracy. The first stage (2013-15) introduced the election of *akims* in towns of *raion* significance, rural districts, townships and villages. In total, 2 047 political posts were filled in the first elections held in August 2013. The election results are presented in Table 2.5. The elections of *akims* of *raion* significance, rural districts, townships and villages, which took place in August 2013, were based on the indirect suffrage held through a secret ballot of district deputies of the region's *maslikhat*. In total, nearly 90% of all positions in local executive bodies were filled through the election process. With an incumbency rate of 71% and most elected *akims* running under the banner of the President's Nur Otan party, the election of *akims* has not led to a significant change or renewal of local leadership (PBN Hill+Knowlton Strategies, 2013; Embassy of the Republic of Kazakhstan Helsinki, 2013; ECHO, 2014).

Table 2.5. Local elections results, 9 August 2013

	Number of elected <i>akims</i>
Cities	47
Towns	119
Villages	190
Rural areas	2 101
Total	2 457

Source: PBN Hill+ Knowlton Strategies (2013), "Kazakhstan inaugurates local elections", http://pbn-hkstrategies.com/en/Insights/Kazakhstan-Inaugurates-Local-Elections#.V_JcaviLTct.

The conditions under which these elections were held show a high degree of control over the process by the central government. Thus,

candidates in the *akim* elections had to meet several criteria: be at least 25 years of age, live in the area they wished to represent, be themselves eligible voters, meet the requirements of the Kazakhstani Law on Civil Service, meet an unspecified minimal higher education requirement and have no criminal record.

The combination of candidacy requirements, indirect suffrage and high incumbency by Nur Otan candidates suggest that Kazakhstan is still at an interim stage in the development of citizens' empowerment and local democracy. However, the elements contained in the President's Plan of the Nation suggest that Kazakhstan has embarked on a process toward greater public participation and democratisation, though this process will stretch over many years. For example, the election of *raion akims* are planned to be introduced between 2016 and 2020. In most cases, however, no specifics have been announced and no concrete steps have been taken to date to implement this change. As a result, *raion akims* remain to date presidential appointees.

Once fully implemented, the election of *akims* up to raion level could be a positive step which would align with international practices and may carry the potential to improve public governance in Kazakhstan on a number of dimensions. Firstly, for the first time, the election of *akims* will introduce a direct link between the *akim* and the local population. Prior to these reforms, *akims* were appointed officials, dependent for their mandate on the *akim* of an upper level of government.

This link between local communities and local officials is a key link and will contribute to enhancing the representativeness and accountability of local executive bodies, thus contributing to the system of checks and balances. While the election of *akims* is undoubtedly a positive step toward local democratisation, it will be necessary to ensure that this does not further weaken the role of *masklihats*.

Second, the election of *akims* would establish the *de facto* introduction of terms of office where none existed before. This is a positive step in that it carries the promise of greater responsiveness to changing local needs and the orderly change in local government leadership.

Recommendations

Implement the already planned reforms of local representation and bring forward the election of *akims* up to the level of raions and cities of oblast significance.

Establish fixed mandates for *akims* at all levels of local government and consider establishing term limits for all *akims* who are to be elected.

The changes brought forward by the concept demonstrate an important movement in terms of strengthening the democratic legitimacy of the local government. However, other capacity-building mechanisms are also needed. The reforms implemented to date have not empowered Kazakhstan's local representative institutions in tandem with the increase in the responsibilities. These continue to be determined at the highest level of the state. In the case of Kazakhstan, decentralisation and democratisation processes should work together; it cannot be taken for granted that elections, by themselves, will increase local capacities.

The concept also served to bring forward local government reforms, which further aimed to increase the roles and responsibilities of local executive bodies, matched by increased accountability to citizens at the local level. These changes also included granting the lowest levels of local governments (i.e. towns, villages and rural districts) the capacity to take small-scale budgetary decisions (i.e. income and expenditures) within their areas of authority and after consultation with the local community). However, at the time of writing Kazakhstan had yet approved the draft law needed to implement this aspect of the concept. The importance of this planned measure is underscored by its reference under Step 98 of the Plan of the Nation (see below).

This step is in keeping with the direction taken by many countries to open up local governments' budgetary processes to local citizens. Local input has been shown to lead to real changes in resource allocations, the best known example being the city of Porto Alegre in Brazil. Participatory budgeting can increase the empowerment of citizens in local affairs (Dom, 2012).

Successfully implementing participatory budgeting requires more than just legislative change, however. International experience shows that the implementation of participatory budgeting requires an investment to build the capacity and awareness of local citizens. Ensuring that citizens understand the process and its implications may require procedures and guidelines written in simple, accessible language, to be provided. It may also

be necessary to develop capacity through community-based training; training local officials and supporting the process, such as by making experienced facilitators available (Dom, 2012).

Recommendation

Strengthen capacity of local communities and officials to support the process of participatory budgeting and its implementation.

The Five Institutional Transformations and 100 Concrete Steps further consolidate local government reforms

The strategy Kazakhstan 2050 introduced a considerable range of reforms to local government. Though the decentralisation of responsibilities had been pursued in the past, Kazakhstan 2050 relaunched this process and associated it with concrete objectives, such as increasing accountability, effectiveness, service delivery and local democracy. In addition, Kazakhstan 2050 explicitly linked the transfer of powers with support for local authorities in the form of financial and human resources (Kazakhstan 2050, 2015). Though the reforms announced through Kazakhstan 2050 will be staged over a period of time, the strategy establishes the legal and policy groundwork for further reforms, such as those introduced through the Five Institutional Reforms and 100 Concrete Steps for their implementation (Plan of the Nation).

In May 2015, the President announced a new development plan for Kazakhstan. The 100 Concrete Steps to Implement Five Institutional Reforms (the Plan of the Nation) plan proposes five focus areas to strengthen Kazakh statehood (President of the Republic of Kazakhstan, 2015b). These are:

- formation of a professional state apparatus
- the rule of law
- industrialisation and economic growth
- identity and unity of the nation
- formation of an accountable government.

At the time of writing, the programme of the Plan of the Nation was still in the process of being implemented.

At the broadest, the Plan of the Nation is in keeping with the previous goal of modernising Kazakhstan's government and governance. In this

regard, the steps with the greatest bearing on local government are contained under the area of formation of accountable government. This includes:

- Step 97: empowering citizens to participate in the decision-making process through the development of local governance.
- Step 98: independent budgets for local government will be introduced in rural districts, cities of raion significance, villages and towns.
- Step 99: strengthening the role of public councils under state agencies and *akims*.

Other measures outlined as part of the Plan of the Nation are expected to increase the accountability of government, especially in the local administration, by fostering greater accountability in government. For example, Steps 91 (system of performance assessment) and 95 (annual public reporting) (President of the Republic of Kazakhstan, 2015b) have the potential to establish a robust and open system of accountability to citizens.

In addition, Step 96 calls for central state institutions to make public the results of various accountability and oversight documents, including all budgets, spending and consolidated financial reports, and the results of external assessment of public service quality (President of the Republic of Kazakhstan, 2015b). This measure has a strong potential to contribute to increasing accountability and transparency to citizens. The Access to Information Law was approved in November 2015 for implementation of the Step 96 and applies to all the government agencies and quasi-governmental organizations, including at the local level. However, the quality and scope of the data provided differs from one region to another and from one government body to another. The quality and the scope of data should be sufficient for the independent assessments, awareness on key issues, and open decision-making in the local and regional communities, as well as at the national level.

Recommendation

Ensure that the information provided by the government agencies and quasi-governmental organizations at all levels, including the local government, is sufficient for the assessment, awareness on key issues, and open decision-making in the local and regional communities, as well as at the national level.

Other reforms that have been brought forward as part of the Plan of the Nation include the establishment of municipal police forces under the authority of the local executive bodies (city and town level). In addition to

increasing public safety, this measure aims to increase the accountability of police forces to local bodies and, by extension, local citizens. The local police continues to be the territorial unit of the national police and be coordinated by the Ministry of Internal Affairs. However, the head of the local police is now appointed by the *akim* of the corresponding level of the local government upon approval of the relevant *maslikhat*. The local police deals with the broad number of police functions most proximate to the citizens, including prevention of violence, protection of public order, road transportation safety, prevention and suppression of crimes.

The local police is financed and supported from the local budget. The local government (*akim*) can set the tasks for the local police. The *akim* and *maslikhat* receive reports from the local police at least twice a year.

The introduction of local policing began on 1 January 2016 – in advance of the approval of legislation in the national parliament (President of the Republic of Kazakhstan, 2015a; Astana Times, 2016).

It will be important to carefully monitor the extent to which the proposed measures within these items will contribute to achieving their stated goals (such as the impact of granting more powers to the private sector and self-regulated organisations on citizen empowerment included under Step 97). However, insofar as Kazakhstan's public governance reforms concern local government, it appears that the Plan of the Nation is a move in the right direction. However, to fully reap the benefits which these measures are setting up, it would be necessary to link accountability to an electorally defined mandate of the two lowest tiers of local government.

Appropriate administrative structures exist to support and supervise local authorities

Since 1991, Kazakhstan's system of relationships between the central and local governments has been marked by the distribution of power and responsibilities from the central government down through the different tiers of government. More recently, the local executive bodies are granted increased responsibilities through decentralisation, which is a positive trend. It would be important however to ensure that these efforts are matched by a commensurate increase in autonomy, to ensure that local executive bodies discharge their new responsibilities with greater attention to local needs and circumstances. To this end, it would be important for Kazakhstan to strengthen the crucial nexus between taxation and expenditure decisions at the local level so that to reduce the dependence of local executive bodies on the central government for their resources (currently Kazakhstan's local governments receive considerable funding in the form of transfers). Further

strengthening of the autonomy of the local government to define local development priorities, strategies and policies would be important to ensure greater responsiveness to citizen needs and sustainable development.

Governed from the centre, Kazakhstan's system of local government features a number of actors with a role in regard to local authorities.

The Ministry of National Economy plays important role in local government affairs

The main actor in the support and supervision of local government in Kazakhstan is the Ministry of National Economy. However, this is a relatively new addition to its functions as this responsibility previously rested with the former Ministry of Regional Development, which has since been abolished. The Ministry of Regional Development was responsible for implementing local government reforms as well as other matters of local importance such as construction, housing, utilities and land. It was also substantially involved in the process transfer of responsibilities to the regional level as part of the Kazakhstan 2050 reforms (Duisenov et al., 2015: 298; Keene, 2013).³ With the abolition of the Ministry of Regional Development, its responsibilities for local government were transferred to the Ministry of National Economy, including responsibility for the oversight and accountability of local executive bodies.

As shown in Table 2.6, Kazakhstan is somewhat unique in assigning responsibility for local government to a ministry with an economic mandate. This may testify to the importance of regional development as part of the government's overall development plan. By contrast, in most OECD countries, responsibility for local government typically resides with the ministry responsible for domestic affairs, often in conjunction with other functions, such as public safety.

Table 2.6. **Bodies responsible for regional government in selected OECD countries**

Country	Body responsible for regional government
Chile	Ministry of the Interior and Public Security
Czech Republic	Ministry of Finance
Denmark	Ministry of Social Affairs and the Interior
Estonia	Ministry of the Interior
Finland	Ministry of Finance
France	Ministry of the Interior
Greece	Ministry of the Interior
Italy	Ministry of the Interior
Japan	Ministry of Internal Affairs and Communications
Kazakhstan	Ministry of National Economy
Korea	Ministry of the Interior
Netherlands	Ministry of the Interior and Kingdom Relations
New Zealand	Department of Internal Affairs
Norway	Ministry of Local Government and Modernisation
Poland	Ministry of the Interior and Administration
Slovak Republic	Ministry of the Interior
Spain	Ministry of Finance and Public Administrations
Sweden	Ministry of Finance
Turkey	Ministry of the Interior
United Kingdom	Department for Communities and Local Government

Source: OECD, based on publicly available sources.

Within these ministries, responsibility for local government is assigned to a specific administrative unit. For example, in Spain, this responsibility falls on the General Secretariat of Regional and Local Coordination (*Secretaría General de Coordinación Autonómica y Local*), which is responsible for most matters relevant to local government affairs.

In the case of Kazakhstan, the functions related to the local government, are also concentrated in one unit within the Ministry of National Economy – the Department of Regional Policy and Analysis and Assessment of the Regions.

In terms of the role of the central unit, in Kazakhstan there is a tendency to concentrate more on the norms development, tasks setting, and supervision rather than on guiding and supporting local governments in the process of reforms, representing their interests at the central level, mentoring, and capacity building.

Taking into account the progressing decentralisation and the necessity to develop capacity of the local governments for autonomous implementation

of their functions and tasks, the responsible unit at the central level needs to consider guiding and supporting the local governments as the cornerstone of its activity.

Recommendation

Consider strengthening guiding and advisory functions at the central-level unit responsible for the local governments' affairs (currently within the Ministry National Economy).

The Presidential Administration is the key actor in charting the direction of local government policy

In Kazakhstan, the Presidency plays a leading role in supporting the President in charting the direction of local government policy and, in the current context, the decentralisation policy. This is exercised through several vehicles, including the central role of the President in establishing the main development plans for the country, which by extension affects local government. The President also plays a central role in determining the means to be enacted to realise these development goals. For example, the Plan of the Nation and the associated implementation measures illustrate this influence. The Presidency also exercises its influence through its executive authority over the machinery of government. The Presidency's influence is also exerted through the President's power to appoint and dismiss regional *akims*.

The Presidential Administration as supporting institution to the President plays very important role in monitoring the performance of the local governments as well as the process of reforms implementation. The Administration informs the President on the issues of reforms implementation. The Administration includes structural divisions dealing with public control and organisational territorial work; civil service; internal policy, social and economic monitoring. There is also a Centre for Strategic Developments and Analysis.

While the Cabinet works with the local governments in many (almost all) areas of activity (education, health, social policy, etc.), it is difficult to precisely ascertain its role besides its constitutionally prescribed role in the review and approval of legislation. As the OECD's 2014 Review observed, there is a need for Kazakhstan to clarify the roles and responsibilities of the Cabinet. This is particularly needed in the local government policy. In this regard, Kazakhstan may follow the lead of OECD countries which have established Cabinet committees with responsibility for local government. In

the Netherlands, for example, the inter-ministerial steering committee on large cities was established to provide more cross-sectoral policies for large urban areas. This committee, consisting of the most relevant ministers, was one of the obligatory steps for government proposals before proceeding to the Council of Ministers (OECD, 2011b: 173).

The Agency for Public Service and Anti-Corruption in the development of local government civil service

The Agency for Public Service and Anti-Corruption also plays an important role in establishing the working conditions for civil servants across all levels of Kazakhstan’s public administration, including in the local executive bodies.

The organisation of Kazakhstan’s civil service at the local government level is similar to examples of other unitary states having unified civil services encompassing both national and local administrations, such as the United Kingdom (Box 2.7). Though the reforms introduced as part of the Plan of the Nation open the potential for local executive bodies to increase their human resources management responsibilities, as for many other aspects pertaining to local government, the central government is likely to continue to play an important role in shaping the civil service in local executive bodies.

Box 2.7. The British civil service model

The United Kingdom’s civil service is a unified body which is composed of employees working in central government departments, agencies and non-departmental government bodies, and the employees working for the Scottish and Welsh administrations. The civil service does not include elected officials, members of the armed forces, employees of the National Health Service, employees of the Royal Household or employees of municipal administrations. Civil service staff in Scotland and Wales are governed by the same rules and regulations as civil servants working for the central government. In total, approximately 447 000 people work for the civil service; approximately 10% are employed in the Scottish administration and 7% in the Welsh administration.

There are two other administratively separate civil services in the United Kingdom: the Northern Ireland civil service and Her Majesty’s diplomatic service.

Sources: House of Commons Library (2015), “Civil service statistics”, <http://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN02224>; Scottish Government (2015), “Answers to frequently asked questions”, webpage, www.gov.scot/About/Information/FAQs; nidirect (2015), “The Northern Ireland civil service”, www.nidirect.gov.uk/the-northern-ireland-civil-service.

The Agency of Civil Service Affairs and Anti-corruption was created in 1991, which subsequently changed its form to respond to emerging priorities. Currently, the Agency is responsible for the implementation of the President's agenda on public service modernisation, which has evolved in several waves. In the early 1990s, the Agency led the process of transforming the Soviet-style apparatus to a public service meeting the requirements of a democratic system. One of the first steps in the institutionalisation of the civil service included the 1995 President's Decree No. 2 730 "on Civil Service", followed by the 1999 Law "on Civil Service". The next stage included the introduction of a new career-based model of Kazakhstan's civil service, based on the principles of accountability, transparency and meritocracy. Most recently, the Plan of the Nation underlined the importance of a professional civil service, which led to the adoption of a new Law on Civil Service, which came into force in January 2016.

Though functionally attached to local executive bodies, civil servants at the local level are governed by the same codes, laws and regulations that apply to the civil service of the central government. The presence of a single civil service institution in Kazakhstan is not atypical of other civil service models in OECD countries (see Box 2.8). However, unlike France, where separate legislation applies to each branch of the civil service, Kazakhstan's approach is closer to the British model.

Within these central determined conditions, local executive bodies are granted a number of responsibilities over human resources, though the remuneration and working conditions of civil servants in the regions are defined by the central level (OECD, 2015b). These centrally defined conditions are specified through a number of legal instruments including:

- President's Decree of 29 December 2015 No. 152 "on Some Issues of Civil Service".
- Government Decree No. 1324 as of December 15, 2004 on the Issues of Approval of Limits of the Staff Size of Local Executive Bodies.
- Order of the Minister for Civil Service Affairs of 29 December 2015 No. 12 "on Some Issues of Civil Service Appointments to Corps B".
- President's Decree of 29 December 2015 No. 151 "on Some Issues of Civil Service Appointments to Corps A".
- Order of the Minister for Civil Service Affairs of 16 February 2016 No. 35 "on Approval of Regulations on Monitoring the Quality of Public Services".

Kazakhstan has recently committed to professionalising the state apparatus as part of the Plan of the Nation. The proposed reforms, which have yet to be implemented, include changes to civil servants' remuneration and working conditions. These would introduce a new performance- and region-based remuneration system for civil servants, which would be based on the contribution of specific tasks to the implementation of strategic objectives of public institutions. This system would replace the existing system based on the principle of the uniformity of remuneration for all civil servants, irrespective of the level of government or region. This departure from the principle of uniformity will permit the introduction of different wage regimes; for example, civil servants working in economically advantaged regions or in regions with steep cost of living differentials from the rest of the country (President of the Republic of Kazakhstan, 2015a).

Box 2.8. France's civil service

The French civil service (*fonction publique française*) is the corps of civil servants (*fonctionnaires*) working for the French government or decentralised administrations.

The French civil service is a unified body which is made up of three branches: the central government, local government and hospital civil services. Together, these branches employ 5.4 million people. Approximately 45% are employed by the central government civil service, 35% by the local government civil service and 20% by the hospital civil service. Each branch is governed by a specific set of provisions, which are applied nationwide. The General Regulations for all three branches were unified by the Law of 13 July 1983 (Title I – General Regulations), which, however, defined and maintained the specificities of each branch. Judges and members of the military are governed by special regulations. Each branch of the French civil service is governed by legislation specific to it.

The local government civil service (*fonction publique territoriale*) was created in 1984 as part of the decentralisation process. It includes almost all employment in local governments (communes, departments and regions).

Sources: Ministère du Budget, des Comptes publics et de la Fonction publique (2008), “Administration and the civil service in the EU 27 member states: 27 country profiles”, www.fonction-publique.gouv.fr/files/files/publications/etudes_perspectives/Administration_and_the_Civil_service_in_the_27_EU_Member_states.pdf; Ministère de la Fonction publique (2015), Portail de la Fonction publique, www.fonction-publique.gouv.fr; Ministère de la Décentralisation et de la Fonction publique (2014), “Faits et chiffres: L'essentiel”, www.fonction-publique.gouv.fr/files/files/statistiques/rapports_annuels/2014/pdf/Essentiel_2014.pdf; Association des administrations territoriales française (2016), “The French experience of decentralization”.

The experience of OECD countries suggests that it is possible to reconcile a centralised design and uniform treatment of the civil public employment with a decentralised human resources management system. This can be achieved by defining at the national level human resources management elements such as merit, remuneration, performance and promotion, while providing for operationally decentralised HRM in every public administration tier.

The introduction of these reforms provides an opportunity for Kazakhstan to consider further changes to the organisation of its civil service that would better reflect the operational context of local governments, as well as the likely impacts of decentralisation on their human resources needs and capacity. For example, Kazakhstan could consider strengthening the responsibility of local governments for human resources management within the national framework. An interesting example comes from France, whereby lower tiers of governments have responsibility for human resources management, such as in the areas of recruitment and retention. At the same time, France's civil service legislation distinguishes between the national civil service and the territorial civil service.

Recommendation

Consider granting greater autonomy and flexibility in the management of human resources within local executive bodies, for example, in the areas of staffing and performance- and region-based remuneration.

Establishing an identity and professional cadre for the local government civil service may also include the need to develop its capacity. Across the OECD, several governments have sought to strengthen the role of local government through the establishment of training institutions. France's Centre nationale de la fonction publique territorial and Japan's Local Autonomy College are two examples of institutions with a role in human capital development bespoke to the training needs and operating contexts of local government employees (CNFPT, 2012; Ministry of Internal Affairs and Communications, 2008).

Box 2.9. Japan’s Local Autonomy College

The Local Autonomy College was established in October 1953 as a national training institution for local public employees with the aim of contributing to the realisation of more democratic and efficient operation of local public organisations by means of providing these employees with advanced training that could help enhance their ability and skills and promote their service efficiency as well. More than 59 000 students have graduated from the college and now assume active roles as executive leaders in the local public organisations across the country. Among them are a lot of prefectural governors and city, town and village mayors.

Presently, seven curricula, including one with the maximum five-month training term, and a total of 12 courses are conducted yearly with annual total attendance of approximately 1 000. The training curricula are mainly designed to put a major emphasis on the development and improvement of local public employees’ policy-making capability and administration management abilities. There are also some special training curricula designed for the improvement of their tax administration and auditing skills.

The college also constantly reviews the content of its education programmes in order to reflect in a timely manner the changes of socio-economic situations and related administrative requirements as well as to cope with emerging political issues.

In addition, it conducts studies and research on local autonomy and the contents and methods of educating local public servants.

Furthermore, the college functions as the Local Government Centre of EROPA (Eastern Regional Organization for Public Administration) and conducts studies and research on local administration systems in foreign countries and provides training for public employees from overseas.

Source: Ministry of Internal Affairs and Communications (2008), “Local Autonomy College”, webpage, www.soumu.go.jp/english/iaoo.html.

In this context, there is potential to strengthen the role of Kazakhstan’s Academy of Civil Service in the training and development of civil service capacity in *akimats* (Academy of Public Administration under the President of the Republic of Kazakhstan, 2012).

Recommendation

Establish a dedicated training stream for local government officials. This training stream could be offered by the Academy of Public Administration as a separate programme.

The channels for engaging local stakeholders in local government policy could be strengthened

Within their regions and areas of authority – *oblast*, *raion* or *rural district* – *akims* exercise considerable authority over the activities of their local executive bodies, the *akimat*. This includes providing regulatory and legal decisions on broad administrative and managerial matters within their authority. However, these powers can be limited either by presidential powers, those of the central government, or an upper tier *akim* or *akimat* (Bhuijan, 2010: 663).

As presidential appointees, the primary role of *akims* is to represent the central government at the local level. Until recently, *akims* lacked a clear mandate to act as representatives of their regions, granted through direct election. Moreover, the pattern of appointments of *akims* and deputy *akims* shows that most tend to move from region to region as part of a succession of appointments. In some instances, these appointments may be interspersed with appointments in central administration bodies. In short, it is not clear to what degree *akims* play a role in influencing the decision making of the central government in the interest of their local executive body.

Less significant actors in the process of decentralisation are the local elected bodies, the *maslikhats*. The main bodies for the representation of citizen interests, *maslikhats* currently exercise little influence over the decisions of *akims* and *akimats*.

Though integral to governance at the local level, the *maslikhats* do not have enough influence over the executive. Though in law *maslikhats* appear to have extensive powers *vis-à-vis* *akims* and *akimats*, in practice this is seldom the case. For example, although the Law on Local Government and Self-government in the Republic of Kazakhstan gives *maslikhats* the power to approve presidential nominations for *akims*, this seldom results in the rejection of a nominee. Similarly, *maslikhats* rarely resort to the power of non-confidence in *akims* (Ministry of Justice of the Republic of Kazakhstan, 2001). Similarly, *maslikhats* rarely play the role in oversight and accountability provided for them in Article 86 of the Constitution.

Given the existing power imbalance, it seems important for Kazakhstan to ensure that the election of *akims* does not lead to a further weakening in the role of *maslikhats*. Part of the answer lies in existing law and the Constitution. These already provide a key role for *maslikhats* in local governance. The challenge therefore lies in fostering practices and behaviours in line with these powers. For example, as institutions representative of local communities, *maslikhats* have the potential to make important contributions to citizen and stakeholder engagement on issues of

local significance. In doing so, they could become a link between citizens and local executive bodies.

Parliamentary institutions could play a larger role in local government affairs

The Parliament in Kazakhstan, unlike in most OECD countries, tends to play more of a secondary role in the decentralisation process. As a legislative body, the Parliament is responsible for the review of draft laws introduced by the government, including legislation, which is necessary to implement the decentralisation of responsibilities. In addition, both chambers have established committees with responsibility for local government matters and regional development. (Parliament of the Republic of Kazakhstan, n.d.: Article 5; Ministry of Justice of the Republic of Kazakhstan, 2015: Chapter 10). However, beyond their legislative role, neither chamber has played a major role in the definition of Kazakhstan's decentralisation policy or its implementation.

This finding is broadly in keeping with the OECD's 2014 review of Kazakhstan's central administration, which made a number of recommendations to strengthen the role of Parliament in the performance and accountability system (OECD, 2014b).

The engagement of local communities and stakeholders could be expanded

In comparison to OECD countries, the involvement of citizens and other organisations from civil society appears neither extensive nor encouraged. Though a major part of the Plan of the Nation is devoted to increasing public participation in decision making, the changes introduced to date remain limited. Though Kazakhstan is rich in community and civic organisations, it is possible that the area of local government shows a low level of stakeholder involvement at the local community level commensurate with the limited role of this level of government.

The experience of OECD countries suggests that developing a long-term multi-stakeholder vision of reform, through dialogue and consensus-building, is an important precondition for success. This engagement can take many forms.

This experience with citizen and stakeholder engagement of the other institutions of Kazakhstan's government shows considerable scope for improvement. Based on OECD experience, the promotion of the non-governmental sectors should be developed and reinforced in order to be more plural. This change would be further consistent with Kazakhstan's

plans for expanding the participation of the private and non-governmental sector in the delivery of public services.

The experience of OECD countries shows that it may be necessary for Kazakhstan to nurse into existence civil society organisations in this area. For example, for over 25 years, Poland’s Foundation in Support of Local Democracy has played a leading role in promoting and supporting the activity of local authorities and non-governmental organisations, thus contributing to the development and reinforcement of the civil society (Foundation in Support of Local Democracy, 2016). Poland’s experience shows that this type of support is most critical where the capacities and resources of local governments are the weakest, typically in rural and remote municipalities.

This finding echoes the recommendation of the 2014 OECD review which proposed expanding the opportunities for citizen and stakeholder engagement (OECD, 2014b). Enhancing citizen engagement is addressed as part of the policy assessment of open government and stakeholder engagement.

Recommendation

Support capacity building among local community stakeholders, including through fostering of independent civil society organisations.

Notes

1. The four levels are: republican or national level, *oblast* level, district level and local level. The local level consists of “*aul* (rural) *okrug*”, regions of a town and village settlements. Note that only the first three levels have their own governmental and budgetary structures. At the local level, there is a mayor (*akim*), who is appointed by the district level *akim*.
2. The questionnaires were based on the classification of functions derived from the OECD’s Classifications of the Functions of Government (see OECD [2011a]).
3. The Ministry of Regional Development was dissolved in 2014 and its responsibilities were amalgamated under the Ministry of National Economy as part of the 2014 reorganisation of the government (President of the Republic of Kazakhstan, 2014).

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Chapter 3

Capacities and role of local government in Kazakhstan in the context of decentralisation

This chapter examines the capacity of the local government to exercise their powers and responsibilities stemming from their legal authority and budgetary capacity. The chapter looks into the system of the fiscal equalisation and the budgetary decision-making process, as well as into the impact of transfers of financial and human resources following the transfer of responsibilities between tiers of government. Finally, the chapter offers an analysis of evaluation systems in Kazakhstan and provides actionable recommendations on measuring the performance of local executive bodies and developing evaluation criteria that are better aligned to the roles of local government and the demonstration of outcomes to citizen.

Resources exist to support the tasks of local authorities

The capacity of local executive bodies to exercise their powers and responsibilities depends on two crucial factors. First, local governments need the legal authority which can be conferred through the Constitution and other laws of general application (Shah and Shah, 2006). Second, the experience of OECD countries suggests that it is important to ensure that resources exist to support the tasks of local authorities. The transfer of fiscal resources is a core component of decentralisation. Without an adequate level of financial resources for local governments, it is not possible for them to carry out the functions transferred to them effectively. It follows that the presence of both conditions are necessary if local governments are to truly exercise the functions assigned to them. In the case of Kazakhstan, both legal authority and budgetary capacity appear to be relatively strong.

Kazakhstan has in place a system of fiscal equalisation

Kazakhstan's local governments play an important role in the delivery of public services. To enable this, most of the expenditures incurred by local governments are financed through a system of financial transfers between levels of government, which is based on assigned taxes and subventions (World Bank, 2012).

Under this system, *oblasts* share with rayon level the revenues from individual income tax and social tax collected within their territories. Same types of revenues are received by the cities of Astana and Almaty. Besides, *raions* and the cities subordinated to *oblasts* (see Table 2.1) are assigned all property taxes, land taxes, fees, and part of the excise taxes. However, Kazakhstan's *oblasts* differ in the level of economic development. Consequently they differ in their capacity to generate independent revenue streams through taxes or other means. Furthermore, *oblasts* differ in the level of their contribution to the national budget (Bhuiyan, 2010: 666-668; Makhmutova, 2006: 286).

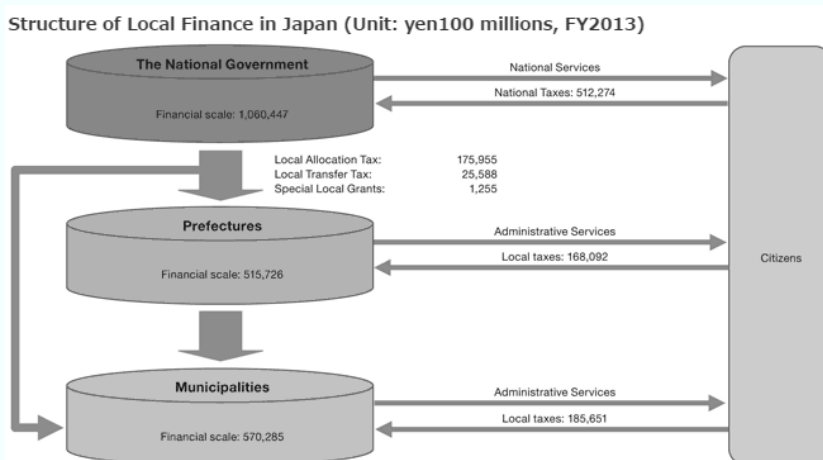
The financial structure of local government shares several features with that used in OECD countries, such as in the case of Japan (Box 3.1).

Box 3.1. Financial structure of local governments in Japan

The administrative system of Japan has a three-tiered structure: at the top is the national government and below that there are two tiers of local governments: prefectures and municipalities.

With the exception of administrative functions such as foreign relations and national defence, most of the administrative functions are financed both by the national government and local governments. Many of the national policies and programmes are carried out by local governments.

Figure 3.1. Structure of local finance in Japan



Source: Tokyo Metropolitan Government (2016), “About our city: Financial structure of local governments in Japan”, webpage, www.metro.tokyo.jp/ENGLISH/ABOUT/FINANCIAL/financial01.htm.

In the Japanese model, local revenues are drawn from:

- local taxes
- local transfer taxes (determined as a percentage of national taxes)
- local allocation taxes (equalisation grants to local governments)
- National Treasury disbursements (targeted grants to local governments)
- local bonds.

Taken together, in the breakdown of revenue for local governments (FY2013), local taxes made up the largest proportion at 35.0%, followed by the local allocation tax (17.4%), National Treasury disbursements (16.3%) and local bonds (12.2%) (Tokyo Metropolitan Government, 2016).

In the case of Kazakhstan, the revenues to be paid into the local budget as specified in the Budget Code include both tax and non-tax revenues in local bodies, including transfers (Box 3.2) (Ministry of Justice of the Republic of Kazakhstan, 2015).

Box 3.2. Revenues of oblasts budgets in Kazakhstan

1. Tax revenues to the oblasts budget include:
 1. the individual income tax on the normative standards of income distribution, established by regional *maslikhat*
 2. the social security tax on the normative standards of income distribution, established by regional *maslikhat*
 3. the fee for the emissions into the environment
 4. the fee for the placement of outdoor (visual) advertising on the right of way of public roads of regional importance
 5. the fee for the use of surface water resources
 6. the fee for forest use
 7. the fee for the use of specially protected natural territories of local importance.
2. Non-tax revenues to the oblasts budget include:
 1. income from municipal property:
 - revenues from the part of the net income of municipal public enterprises, established by the decision of oblast *akimats*
 - dividends on the state-owned shares which are regional municipal property
 - income for ownership interest in the legal entities that are regional municipal property
 - revenues from the lease of regional municipal property
 - interest on loans granted from the regional budget
 - remuneration received from the placement of the temporarily free budget funds in the deposits

Box 3.2. Revenues of oblasts budgets in Kazakhstan (*cont.*)

- other income from the regional municipal property.
- 2. the revenues from the sale of goods (works, services) by the state institutions, financed from the regional budget
- 3. receipts of money from the public procurement, organised by the state institutions financed from the regional budget
- 4. penalties, fines, sanctions, recovery payments imposed by the state institutions financed from the regional budget
- 5. other non-tax revenues to the regional budget.
- 3. The regional budget revenues from the sale of fixed capital are money from the sale of the state property assigned to the state institutions, financed from the regional budget.
- 4. Revenues of the transfers to the regional budget are:
 - 1. transfers from the budgets of districts (the cities of regional importance)
 - 2. transfers from the republican budget.
- 5. The income from the repayment of loans issued from the regional budget, from the sale of financial assets of the state that are regional municipal property, the loans of the local executive bodies of regions are included to the regional budget.

Source: Ministry of Justice of the Republic of Kazakhstan (2015), “Budget Code of the Republic of Kazakhstan” (amended), Article 50, <http://adilet.zan.kz/eng/docs/K080000095>.

Kazakhstan’s regional (*oblast, capital, city of republican significance*) governments are permitted to borrow, though this necessitates prior permission from the Ministry of Finance. The lower levels of administration cannot borrow.

Beginning in 1999, a form of fiscal equalisation¹ was introduced to level the fiscal differences between *oblasts*. As a result, since 1999, *oblasts* with greater capacity to generate revenue have had part of their income deducted and contributed to the national budget whereas *oblasts* with lesser fiscal capacity receive a subvention from the central government (Ministry of Justice of the Republic of Kazakhstan, 2015: Articles 3 and 43). This system of equalisation is similar to that applied in several OECD countries where national governments ensure a degree of parity between the resources available to local government through the use of a fiscal instrument. The German model of fiscal equalisation is described in Box 3.3.

Box 3.3. Fiscal equalisation: Germany

The Federal Republic of Germany is a federal state comprised of the Federation and 16 federal states (the *Länder*). In the structure of the German state, the *Länder* represent an independent level of government endowed with their own rights and obligations. According to the constitutional rules on public finance, the municipalities are deemed to be part of the *Länder*. In order for the *Länder*, as independent constituent states, to fulfil the tasks allotted to them under the Constitution (which is called the *Grundgesetz* or Basic Law in Germany), they need adequate financial resources. The *Länder* must also have free and independent control over these resources. Aligning the revenue of the *Länder* is intended to create and maintain equal living conditions for the entire population in all of Germany.

The German Constitution guarantees that the Federation and the *Länder* receive appropriate levels of funding. The procedural regulations in this regard can be divided into four phases:

6. The entire tax revenue is distributed to the two levels of government – namely the Federation and all the *Länder* – and the municipalities receive a supplementary grant of revenue (vertical distribution).
7. The total *Länder* portion of tax revenue is assigned among the various *Länder* (horizontal distribution).
8. There is equalisation between poor *Länder* and rich *Länder* (financial equalisation among the *Länder*).
9. Poor *Länder* also receive funds from the Federation (supplementary federal grants).

The details of the individual stages are regulated by law.

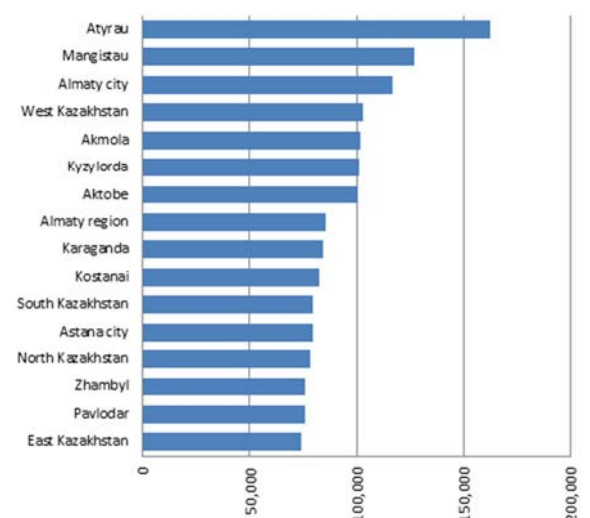
Source: Federal Ministry of Finance (2015), “The federal financial equalisation system”, https://www.bundesfinanzministerium.de/Content/DE/Standardartikel/Themen/Oeffentlich_e_Finanz/Foederales_Finanzbeziehungen/Laenderfinanzausgleich/Eng-Der-Bundesstaatliche-FAG.pdf?__blob=publicationFile&v=1.

In the case of Kazakhstan, all *oblasts*, including those which contribute more to the national budget, are entitled to transfer payments, therefore partly offsetting the deductions (Makhmutova, 2006: 288; World Bank, 2012: 10-12). As shown in Figure 3.2, there is considerable variation between the regions in terms of their self-financing capacity, with the resource-rich regions and Almaty showing the greatest capacity.

This process of equalisation occurs through a system of budget subventions and withdrawals. In the first instance, regions whose planned expenditures exceed planned revenues are provided with subventions to make up the shortfall. In the second instance, regions whose planned

revenues exceed planned expenditures have the surplus withdrawn, which is then transferred to the national revenue² (World Bank, 2012: 10).

Figure 3.2. Variations in per capita receipts by *oblasts*, excluding transfers



Source: World Bank (2012), *Kazakhstan: Targetting Development Transfers*, The World Bank, Washington, DC, p. 11.

Both the policy rationale and the method for equalisation are set out in the Budget Code which states:

Transfers of a general nature are intended to equalize the level of fiscal capacity of regions and ensuring the equal fiscal capacity to provide the services guaranteed by the state in accordance with the directions of the costs, established by this Code to each level of the budget. (Ministry of Justice of the Republic of Kazakhstan, 2015: Article 45(5))

The formula which is used to calculate the level of subvention or withdrawal is set out in the methodology for the transfer calculation approved by Order No. 139 of the Minister of National Economy of Kazakhstan dated 11 December 2014. This methodology requires a uniform approach to all regions with the total amount of projected transfers to local budgets in all regions, to be distributed on the basis of the number of clients of public services in the region and the appropriate adjustment reflecting objective factors that determine the differences in the cost of service provision across the regions.

In the case of Japan, the formula applied to calculate the local allocation tax appears more straightforward, thus minimising discretion in the calculation of the transfer (Box 3.4).

Box 3.4. Japan: Local allocation taxes

In Japan, local allocation taxes form the core of the local financial adjustment system of the nation. The system is designed to sustain general revenue sources and to correct fiscal imbalance among local governments, thereby ensuring that all local governments are able to provide an adequate level of services. This general revenue source consists of grants to local governments calculated by a fixed formula, which allocates a percentage of revenues collected nationally. The percentage of revenue allocated to local governments is 33.1% of income tax, 50% of the liquor tax, 33.1% of the corporation tax, 22.3% of the consumption tax and 100% of the local corporation tax.

Source: Tokyo Metropolitan Government (2016), “About our city: Financial structure of local governments in Japan”, webpage,

www.metro.tokyo.jp/ENGLISH/ABOUT/FINANCIAL/financial01.htm.

Moreover, as the OECD observed in the education sector, the basis on which the cost of local services is calculated may underestimate the actual cost. For example, the actual costs of heating, water and electricity in schools tend to be higher than the estimated costs which are used to calculate local expenditures (OECD, 2014c: 206-261).

There remains considerable variation in revenues net of subventions and withdrawals between regions. The variation in revenue between regions is illustrated in Figure 3.3 (World Bank, 2012: 11).

Another source of revenue for local governments are the transfers (also referred to as targeted transfers) which would be comparable to Japan’s National Treasury disbursements (Tokyo Metropolitan Government, 2016). These transfers are allocated to specific programmes or projects under the responsibility of the local executive bodies. Targeted transfers exist to support both recurring local expenditures, such as for health services, and investments for regional development projects (World Bank, 2012).

The transfer of fiscal resources is therefore one of the core components of Kazakhstan’s system of local government.

As shown in Figure 3.3, with the exception of the investment transfer, transfers from central government as a percentage of local government revenue have fallen since 2010, with the most precipitous drop affecting subventions. For their part, revenues generated from personal, social security and excise taxes duties have increased for most of the period.

However, it is unclear the degree to which the evolution in local government revenues have kept pace with the transfer of functions between levels of government.

Figure 3.3. **Structure of local government revenues, 2010-15 and 2016 (forecast), in %**



Notes: 1. Transfers of a general nature which can be used by local government for any purpose. 2. Investment transfers which are allocated to fund specific projects or priorities. 3. Subventions, like general transfers, can be used for any purpose. Subventions are used as the primary means of equalising government services among regions.

Source: Ministry of National Economy (2015), “Methodology for conducting sectoral (agency-level) functional review of the activities of public bodies”, draft internal working document.

The central level of the government is aware of the problem of high dependency of the local governments on the targeted transfers from the republican budget (36.3% in 2016, according to the information provided by the Ministry of National Economy). There are plans for moving part of the targeted transfers to the revenue base of the local budgets in order to decrease this dependency to 18.3% in 2017.

Changes in local government revenues cannot be explained by discretion in the calculation of transfers alone. Local government revenues from local sources, such as income taxes, and revenues from transfers, are both susceptible to be impacted by variations in Kazakhstan’s general economy. Specifically, extractive industries are a prime source of income for central and local governments. Kazakhstan therefore faces a problem common to other resource-dependent economies, such as Canada (Box 3.5).

Box 3.5. Canada’s Equalisation Programme

In Canada, equalisation entitlements are determined by measuring provinces’ ability to raise revenues – known as “fiscal capacity”.

Before any adjustments are made, a province’s per capita equalisation entitlement is equal to the amount by which its fiscal capacity is below the average fiscal capacity of all provinces – known as the “10 province standard”.

Provinces get the greater of the amount they would receive by fully excluding natural resource revenues, or by excluding 50% of natural resource revenues.

Equalisation is adjusted to ensure fairness among provinces while continuing to provide a net fiscal benefit to receiving provinces from their resources equivalent to half of their per capita resource revenues.

Equalisation is also adjusted to keep the total programme payout growing in line with the economy. The growth path is based on a three-year moving average of gross domestic product growth. This helps to ensure stability and predictability while still being responsive to economic growth.

Source: Department of Finance Canada (2016), “Equalization Program”, webpage, <https://www.fin.gc.ca/fedprov/eqp-eng.asp>.

Therefore, while it may be difficult to fully anticipate government revenues from this sector, it may be best for Kazakhstan to establish as predictable and stable a regime of transfers to local governments, which would allow the local government to forecast their revenues and plan for the expenditures of the future periods with some degree of certainty.

Recommendation

Undertake regular review of the fiscal transfer system to ensure stability and predictability of transfers to local executive bodies while still being responsive to economic growth. This could be achieved by basing the transfers on a rolling three-year average of economic activity and government revenues and expenditures.

Any changes made should not result in any major change to the amount of the general transfer (i.e. changes should be expenditure neutral).

Local government authorised expenditure areas should be aligned with their areas of activity

Having access to an adequate level of financial resources – either in the form of locally raised revenues (i.e. taxes and charges) or via transfers from

the central government – is essentially to enable local governments to carry out transferred functions effectively. In addition to having a source of revenue, fiscal decentralisation also entails the authority of local government to take expenditure decisions (World Bank, 2001, 2012; OECD, 2015).

It follows that a prime consideration for fiscal decentralisation revolves around the extent to which lower tiers of government have the autonomy to determine their expenditures and the ability to raise revenue to enable these expenditures (World Bank, 2001).

Despite major progress and numerous changes since 2003, the decentralisation reform in Kazakhstan is not yet fully completed and relations between authorities at different levels still reflect historical, political, geographic and other factors.

In Kazakhstan, fiscal relations between the central government and regional governments are framed by the Budget Code, which outlines the fiscal relations between the levels of government (Ministry of Justice of the Republic of Kazakhstan, 2015: Article 42). The Budget Code defines:

- the items which are to be included in either the central or local budgets
- the means by which revenue is transferred between levels of government, for example through general transfers versus targeted transfers
- the types of tax revenues to be received by the local budgets of each level. The taxes are collected by the central government tax authorities.

Another main feature of the fiscal relations between levels of government is the rigidity of expenditure norms and regulations (all of which are defined at the national level) and the inflexible way in which funding flows are earmarked. This limits the autonomy of subnational governments and local bodies to adjust allocations in accordance with local needs and budget possibilities. A good illustration of the practical consequences is the proportion of local spending on education that is allocated to salaries (OECD, 2014c: 260-261).

Thus Article 54 of the Budget Code enumerates 12 areas in which local executive bodies are obliged to make expenditures (Box 3.6).³

**Box 3.6. Spheres of mandatory local government expenditures
(oblasts)**

10. Functions of a general nature
11. Defence, public order and safety
12. Education
13. Healthcare service
14. Social assistance and social security
15. Housing and utilities infrastructure
16. Culture, sports, tourism and information
17. Agro-industrial complex, water, forestry, specially protected natural areas, protection of the environment and wildlife, land relations
18. Architectural, town planning and construction activity
19. Energy conservation and energy efficiency
20. Transport and communications
21. Regulation of economic activity
22. Other areas.

Source: Kazakhstan, Budget Code, 2008.

For each of these areas of expenditures, the Budget Code further specifies the types of expenditures allowed, with varying degrees of specificity. Thus, in education, the Budget Code specifies 15 directions of expenditures. The breakdown is quite detailed: for example, one of the lines requires the expenditures on organization of the academic competitions at the regional level, another – on the nutrition for the specific categories of students. At the same time, in healthcare there are only four categories of expenditures, one of which reads as “other expenditures in healthcare with the exception for those financed from the republican budget”. It is obvious that the oblast budgets will be more flexible in the latter case than in the former one.

In addition, the Budget Code also gives the central government the authority to fix the number of staff of the local executive bodies (Ministry of Justice of the Republic of Kazakhstan, 2015: Article 54).

Taken together, the elements of the Budget Code could be seen as defining the scope of activities of local executive bodies by identifying the

areas of mandatory expenditures. All the areas that the regions themselves plan to include fall into the category of “the other expenditures”.

These authorised expenditure areas are similar in several regards to those of Japanese local governments. These include:

- social welfare
- public health and sanitation
- agriculture, forestry and fisheries
- commerce and industry
- civil engineering works
- education
- debt services.

The breakdown of local finance expenditure by administrative category (FY2013) in Japan shows the major area of expenditure to be social welfare, accounting for 24.1%, followed by education at 16.5% and civil engineering works at 12.4%. Social welfare and education combined amounted to about 40% of total expenditure (Tokyo Metropolitan Government, 2016).

The areas of local government expenditures prescribed by Kazakhstan’s Budget Code are therefore largely in keeping with OECD and international practice. However, the capacity to spend is dependent on the capacity to raise revenue. In this area, Kazakhstan’s revenue-raising capacity is limited.

Kazakhstan’s Tax Code may be overly restrictive

Across the OECD and internationally there exists a lively debate about the adequacy of local government revenues, especially as local governments’ responsibilities may be changing. In this debate, a key element turns to the question of the limited capacity of most local governments to generate autonomous revenue (Yilmaz, Vaillancourt and Dafflon, 2012). This is also true of Kazakhstan.

Kazakhstan’s local executive bodies have little authority with regard to taxation. Tax collection in Kazakhstan is centralised at the Ministry of Finance and its territorial divisions (Bhuiyan, 2010: 666-668) with the local tax collection bodies being vertically subordinated to the national level.

The existence of local taxation does not appear as part of Kazakhstan’s Tax Code. Rather, the Tax Code enumerates the various types of taxes and payments which are allowed. This approach may be overly restrictive as it does not permit local governments to adjust their revenue sources to their

expenditure needs. While these differences could previously be compensated through transfers and subventions from the republican budget, Kazakhstan's current economic circumstances may dictate a different approach. Increasing local governments' capacity to raise revenue is one such policy avenue. Such a change would further be in keeping with the direction already taken by Kazakhstan. Thus, recent reforms to the Tax Code grant *akims* of settlements, villages and village districts certain powers over the collection of personal taxes within their areas (Ministry of Finance, 2015: Article 23(2)).

It is notable that given the complexity of the Tax Code and of the Budget Code that the Ministry of Finance devotes considerable attention to training staff in local governments about the impacts of any changes to these codes and related instruments. As Kazakhstan contemplates further reforms, especially with the introduction of village-level budgeting, it will be important to sustain these capacity-building efforts.

However, given Kazakhstan's large territory, its relatively small population and the diversity of economic capacity between regions, any changes to the Tax Code which increase sources of local revenue should not lead to significant changes in intra-regional disparities. It is therefore important for Kazakhstan to recommit to equalisation as a key element of its budgetary policy.

Scope exists for more engagement in the budgetary decision-making process

Though the principle of equalisation and fiscal decentralisation are well enshrined in Kazakhstan, their effectiveness as public policy instruments is dependent on the result of the budget-making process. The budget commissions established at the national and regional levels are central to this process. The commissions are permanent bodies principally responsible for consideration of the draft budget prior to their submission to the respective decision-making bodies (Parliament or *maslikhats* respectively). At the national and regional levels, the mandate and membership of the budget commissions fall under the competence of the Presidential Administration and *akimats*, respectively. An important difference between both commissions is the requirement for representatives from the National Chamber of Entrepreneurs to sit as members of the regional budget commissions. This ensures that the issues of the private business sector are taken into consideration as part of the budget process. However, it also serves to highlight the absence of other stakeholders in the work of the budget commissions, which was also a finding of the 2014 Review (OECD, 2014b).

As the experience of the United Kingdom suggests, central governments have a responsibility to consult lower levels of government on financing decisions, especially in the context of diminishing fiscal resources across all levels of government. This is particularly necessary when lower levels are dependent to a significant degree on grants from the central government. To remedy this situation, the British government conducts a broad stakeholder consultation as part of its process to determine local authority financing (Box 3.7).

Box 3.7. Local government financing consultations: United Kingdom

In December 2015, the Department of Communities and Local Government launched a consultation as part of its process for determining the financial transfer to local authorities from the central government for the year period starting on 1 April 2016. The process is conducted annually.

The provisional local government finance settlement on which the consultation is based sets out the model for estimating the amount of money each council and fire authority can expect to receive from the central government through the Revenue Support Grant and retained business rates income. The provisional settlement for 2016-17 included:

- detail on how the amounts of the grant were calculated
- the estimated core spending power of each authority
- a consultation document setting out 17 questions
- a draft equalities statement.

As part of the consultation the department also published:

- information about the framework and flexibilities for setting council tax in 2016-17
- a draft direction and guidance on capital receipts flexibility
- a consultation on reforms to the New Homes Bonus.

Responses to the consultation were collected via email or written submissions. In addition, ministers and officials held meetings with individual authorities, representative bodies, members of parliament and other stakeholders through the consultation period.

In total, 278 formal responses were received and given full consideration alongside other representations made during the consultation period.

Box 3.7. Local government financing consultations: United Kingdom (cont.)

The results of the consultation were summarised and published as a summary report which also included the government’s response to the contributions received.

Sources: Department for Communities and Local Government (2015), *Provisional Local Government Finance Settlement 2016-17 and an Offer to Councils for Future Years: Consultation*, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/494385/Provisional_settlement_consultation_document.pdf; Department for Communities and Local Government (2016), *Provisional Local Government Finance Settlement 2016-17 and an Offer to Councils for Future Years: Consultation: Summary of Responses*, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/499283/Summary_of_responses_to_provisional_LGFS_consultation.pdf.

The nature of the relationship between the republican (national level) and regional budget commissions could be established. Cross membership between the commissions or the presence of regional government representatives on the republican commission does not yet appear to be the case. Linkages between the budget-making processes of each tier of government would benefit from strengthening, which could increase regional considerations in the adoption of budgets across all levels of government.

Box 3.8. Citizen involvement in budgetary decision making

“Budgeting is a fundamental activity of government, symbolising an explicit agreement between people and their government: private resources in exchange for the public services and benefits that fulfil national priorities and objectives. Citizens rightfully expect governments to deliver on that promise. They further expect that public budgets be fair, equitable and transparent. If citizens believe that the management of government finances is subject to corruption, inefficiency and waste, they question the motives of their leaders and are less willing to accept tough policy choices such as structural programme reforms, tax increases and spending cuts. Their resistance is further hardened if they feel that government does not represent their interests or respect their opinions about how to allocate public resources.

Strengthening the transparency and openness of public budgets can help promote social accountability and restore the public’s confidence in overall government. That will enable citizens to become more engaged and, in the process, learn more about the budget and fiscal policy concerns. As they do, cynicism should dissipate and trust in government should improve.”

Source: Tanaka, S. (2007), “Engaging the public in national budgeting: A non-governmental perspective”, <http://dx.doi.org/10.1787/budget-v7-art12-en>.

There is considerable international experience with citizen involvement in budgetary decision making (Box 3.8), which could be relevant as Kazakhstan deepens its efforts in this area. Kazakhstan may consider evaluating the results and impacts of village-level budgetary decision making which, if successful, can be used to draw lessons which will enable extending this practice to other levels of local government (i.e. town, *raion* and eventually *oblasts*).

Recommendation

Consider undertaking independent evaluations of the effects of local participatory budgeting, which can help ensure that it has met its expected outcomes and resulted in a tangible improvement for citizens and local communities.

Despite the introduction village-level participatory budgeting, like many other elements which define the relationship between tiers of government in Kazakhstan, there is a clear preponderance for the central government over fiscal affairs (OECD, 2015), although this is not unusual in a unitary state, especially where tax and revenue powers are aggregated at the centre.

Kazakhstan has in place the capacity to assess local government performance

As is other areas in Kazakhstan's system of governance, measuring the performance of local executive bodies is a centrally determined process. Under the Decree on the System of Annual Evaluation of the Effectiveness of the Central Government and Local Executive Bodies of *Oblasts* and the Cities of Republican Status, local executive bodies are assessed annually on the effectiveness of their activities. The assessments are conducted by the Ministry of National Economy.

Therefore, although additional responsibilities have been transferred to local executive bodies as part of the process of decentralisation, the central government continues to play an important oversight role over how these responsibilities have been administered. Most importantly, the transfer of functions to local governments has not led to an increase of their role or capacity in the self-assessment of their activities. In the absence of internal evaluation capacity, local governments are subject to periodic assessments conducted by the Ministry of National Economy based on seven areas defined by the central government and which apply to all *oblasts*, including budget, IT and HR management, public service delivery, and implementation of strategic objectives.

Recently the Ministry of National Economy revealed its intention to assess local government performance on the basis of target indicators that were developed in consultation with *akims*. These indicators are:

- rate of economic growth
- increase in tax and non-tax income
- social development, including employment and life expectancy targets
- preschool coverage
- housing stock
- road conditions.

Under this new process, local *akims* would be evaluated on whether they met specific performance targets for each of these areas, with the targets spelled out in a memorandum of understanding. A similar process based around identical assessment criteria is also planned for implementation at the level of *oblast akimats*. For example, in the East Kazakhstan region, the assessment is conducted by the Regional Management Board, which also includes in its assessment the region's five-year Regional Development Plan (OECD, 2015).

At the same time, there may be a need for developing evaluation criteria that are better aligned to the roles of local government and the demonstration of outcomes for citizens. Thus, for example, while the seven indicators put forward do touch upon areas of local government responsibility, it is also clear that some of these are areas over which local governments will have minimal leverage. This suggests that much more needs to be done in both the areas of indicator development and the capacity to assess performance.

This need to increase capacity has also been recognised by the Kazakh government, though there is limited indication of recent actions to address this issue. The major effort in this area occurred in 2011 under a joint project of the UNDP Programme for Kazakhstan and the Ministry of National Economy aimed to support the implementation of the President's Decree on the System of Annual Performance Evaluations of the Central Government and Local Executive Bodies of *Oblasts* and the Cities of Republican Status and Presidential Decree on Methodology of the Performance Assessment of State Bodies. The purpose of the workshop was to consider the performance evaluation of the central government and local executive branches, focusing on six principal areas:

1. implementation of strategic goals and objectives

2. implementation of national decrees, laws and orders
3. implementation of budget programmes
4. public service delivery
5. human resources management
6. application of information technology (United Nations Development Program in Kazakhstan, 2011).

In short, while responsibilities in several areas have been transferred, this has not been accompanied by a commensurate transfer of accountability over the performance of these responsibilities. However, it is also uncertain whether this assessment system will be balanced by increased accountability to actors other than the central government.

In addition to these improvements, it will be important to ensure that the results of these assessments are objective and transparent to all key stakeholders: parliamentarians, the public and the non-governmental sector. This is essential in order to ensure public accountability for results. Though the Plan of the Nation already include the undertaking to make public the results of the assessments of executive bodies, more can be done. For example, the degree of involvement of local stakeholders and the non-governmental sector in the assessment of public bodies is presently underdeveloped. Yet, as the prime beneficiaries of services provided by local executive bodies, it would seem appropriate for these interests to be involved in the process. This is especially important given that the effective implementation of decentralisation reforms will allow for improving the quality of life of citizens and more efficient and effective public spending. Building capacity in the non-governmental sector, such as government financing of NGOs' participation in the performance assessment of state bodies, was suggested as part of the 2011 workshop and remains a valid recommendation today (United Nations Development Program in Kazakhstan, 2011).

Recommendation

Strengthen mechanisms for active and meaningful civil society participation in the assessment of local executive bodies' performance, including its effectiveness, responsiveness and openness. This should also include transparency in the publication of the results of the assessments of the activities of local bodies, including on the actions to be taken based on the results of these assessments.

Decentralisation is defined by central government priorities

The process of decentralisation through the transfer of responsibilities has been ongoing in Kazakhstan since 1996, though the implementation of decentralisation has occurred in phases corresponding to successive national development plans. Looking forward, Kazakhstan's continued governance reforms, including those captured under the Plan of the Nation, are likely to include further decentralisation and transfer of responsibilities. The direction these reforms will take are captured in the draft law introduced in December 2015, on introduction of changes and additions to some legislative acts of the Republic of Kazakhstan on the issues of delineation of powers between the levels of public administration (National Modernization Commission, 2015).

As in many other aspects of public governance in Kazakhstan, the process of the decentralisation of responsibilities is founded on an extensive suite of legal instruments. These legal instruments include:

- Law on Amendments and Additions to Some Legislative Acts of Kazakhstan on the Delimitation of Powers between Governments, which concerns the election of *akims* at the lowest level of local government.
- Decree (29 April 2013) No. 411 on Some Issues of Limits on the Regular Number of Ministries, Other Central and Local Executive Bodies and the Abolition of Some State Institutions, which resulted in optimising the number of local executive bodies and consequent reductions in staffing levels.
- Decree (6 August 2014) No. 875 in the Reform of the Public Administration System of the Republic of Kazakhstan, which reorganised the government of Kazakhstan and reduced the number of central government bodies.
- Decree (25 August 2014) No. 898 on Measures on the Division of Powers between Levels of Government of the Republic of Kazakhstan, which outlines the basic principles and approaches on the division of responsibilities between levels of government.
- Decision of the Government (Cabinet) (15 December 2004) No. 1 324 on Some Issues the Approval Limits of the Regular Number of Local Executive Authorities.

Taken together, these instruments establish the framework for decentralisation, although none of them result from extensive consultation with local executive bodies. Subsidiary regulations approved by the local

legislative bodies, the *maslikhats*, serve to implement the measures contained in national legislation (OECD, 2015).

The role of local executive bodies should be strengthened in the decentralisation process

As noted, the main factor driving the process of decentralisation in Kazakhstan stems from the Plan of the Nation (100 Concrete Steps). Though presented as a means of increasing public participation and responsive to the citizens, few of the early actions taken to implement Step 97 appear to support these goals. This is likely the result of the top-down – i.e. central government defined – rather than bottom-up approach taken by Kazakhstan to the process of functional transfer. Rather than tasking local executive bodies to identify areas where local delivery may improve delivery and results for citizens, the process is driven by central government priorities.

At present, the current process of decentralisation has resulted in only six areas determined to be suitable for transfer to local executive responsibility. According to the information of the Ministry of National Economy, these are:

7. land use for defence and national security
8. investment subsidies to local businesses
9. monitoring seed resources
10. research and development
11. development and approval of fish, water and water resources
12. transfer of responsibility for technical approval of gas and gas supply systems.

The process used to develop this initial list of functions to be transferred is captured in Figure 3.4.

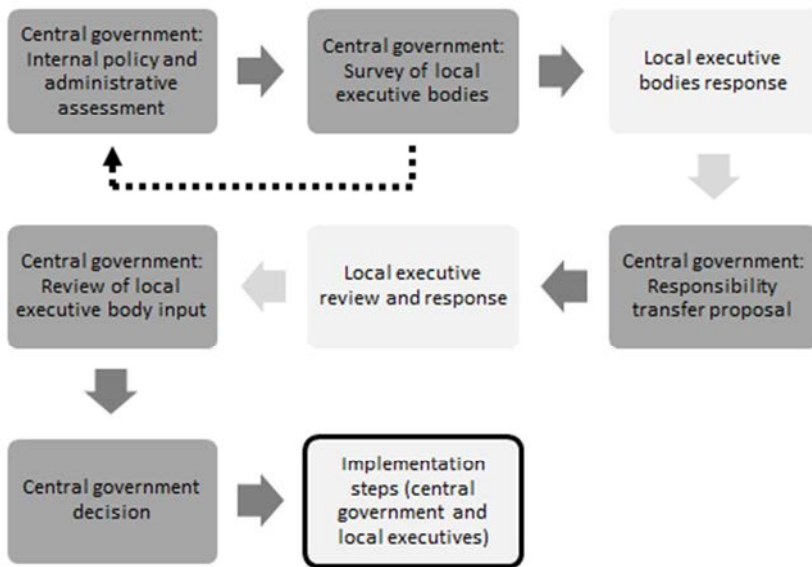
The starting point in the process consists of identifying areas suitable for transfer. This is done through an internal process of assessment and functional review conducted by the responsible ministries. The degree to which local executive bodies were consulted as part of this internal assessment, or whether an external environment scan was conducted to arrive at these decisions, is unclear (OECD, 2015).

This initial step is followed by formal proposals for the transfer of responsibilities which are submitted to the local executive bodies for consultation. In several *oblasts*, *akimats* working groups chaired by the deputy *akims* were established and composed of representatives of regional

and local executive bodies. However, it does not appear that local executive bodies were involved in proposing alternatives to central government proposals and instead confined their input to matters such as considerations for the region, for example effective implementation and efficiency issues (OECD, 2015).

The final stages in the process consist of the internal decision making of the central executive, Presidency and Cabinet as the legal and constitutional authorities to decide on the shape of Kazakhstan’s government at the central and regional levels (OECD, 2015).

Figure 3.4. **Decentralisation consultation and decision-making process**



Source: OECD (2015), Responses to the OECD Survey on Multi-level Governance in Kazakhstan, akimat responses.

The factors considered at different stages of this process appear to include impacts on local executive bodies that are integral to this process, especially where the transfer of responsibility may have an impact on resource levels. Therefore, the process includes not only an assessment of the financial and human resources impacts, but providing the authorisation for regional governments to adjust their resources as part of the final implementation step; for example, increasing staffing levels in executive bodies to meet the needs arising from the new responsibilities (OECD, 2015).

Overall, although the process was led primarily by the central government, there is evidence of inputs and participation by the regional levels of government into the evidence-gathering and analysis processes associated with the transfer of responsibilities. However, despite this openness to input on the part of local executive bodies, in many ways the process associated with the decentralisation of responsibilities remains largely closed to other interventions, such as from the non-governmental and private business sectors (OECD, 2015).

Though the process described above appears comprehensive and open to inputs from local sources, it could be improved by increasing transparency. The methodology that is applied as part of the internal assessment and final decision making is not well known, including to local executive bodies. How factors such as the public interest or impacts on resources are addressed is unclear, as is the degree to which local executive bodies are able to influence the final decision. The transparency and clarity of the process should be increased (OECD, 2015).

Recommendation

Enhance transparency in the process and methodology used to assess and decide on the transfer of functions. This information should be freely available to all relevant stakeholders, including the public and civil society organisations.

Decentralisation impacts on local executive bodies are not sufficiently assessed

One of the key issues associated with decentralisation is that of the capacity of local executive bodies to take on the functions transferred to them. As noted above, the availability of resources should be one of the main factors assessed as part of the decision-making process. Though the transfer of responsibilities between levels of government is not a new feature of Kazakhstan's policy in the area of administrative and governance reforms, it has accelerated in line with the Plan of the Nation. Though the current process is still in its early stages, there is scope to consider Kazakhstan's experience with previous functional transfers in three main areas: human resources, administrative structures, and fiscal and financial resources.

One of the main areas impacted by previous decentralisation is the area of human resources management, in particular in the area of staffing levels. As responsibilities of the central administration are transferred, *akimats* have reported experiencing shortages in human resources capacity to undertake

their new transferred responsibilities (OECD, 2015). *Akimats*, however, have little scope to autonomously determine their staffing needs and therefore rely on the central government to review and authorise any additional resources. Though in most instances the transfer of functions has resulted in increased human resources being authorised for the local executives, this has not been systematic across all areas.

A related issue concerns the degree to which the transfer of responsibilities is also matched by the commensurate transfer of professional expertise to match the new capacity needs in the *akimats*. This may have an impact on the quality of services provided where *akimats* lack the professional expertise needed to undertake their new responsibilities.

Administrative structures have also been impacted by the transfers of government functions. Where in some cases new functions could be absorbed within existing administrative structures in the local executives, this has not always been possible as newly transferred functions have also included areas which were entirely new to local executive involvement. For example, the responsibilities for animal health (veterinary services) required the creation of new administrative structures. Because the capacity of local executive bodies to change their administrative structures requires central government authorisation, *akimats* have found themselves wedged between two conflicting central government decisions: the need to take on a new responsibility while at the same time having to streamline their administration.

Underpinning both the impacts in human resources and administrative expansion are the financial and fiscal impacts which local executives face as a consequence of expanding responsibilities. Because the fiscal resources of local executive bodies are limited and entirely determined by the national Tax and Budget Codes, local governments can seldom afford to take on new roles. In recent years there has been recognition of this fact by the central government. In response, the central government has increased its fiscal transfers to *akimats* to compensate for these increased responsibilities, though the degree to which these increased fiscal transfers are adequate to fully fund the new transferred responsibilities is unclear (OECD, 2015).

Because the impact of decentralisation falls principally on local executive bodies, there is a necessity to ensure that these public bodies are sufficiently resourced and capable to take on these new roles. Looking forward, these lessons show the need to ensure that impacts are carefully assessed and considered as part of the decision-making process. Foremost, they highlight the need to consult actively and openly with the local executive bodies, as they are best placed to assess the impacts as well as propose options that would enable the realisation of government objectives.

At present, the central government retains its core position in shaping the resources available to local government (OECD, 2015).

The role of the National Commission for Modernization as an important player in the process of decentralisation needs to be clarified

In April 2015 the President announced a Plan for the Nation. Under the Plan a new actor was introduced into the decision-making process, the National Commission for Modernization. Headed by the Prime Minister, this Commission was established to co-ordinate the work of government bodies on implementation of the Plan of the Nation (President of the Republic of Kazakhstan, 2015). The Commission includes members of Parliament, senior officials of central executive bodies, members of non-governmental organisations including the Civil Alliance and National Chamber of Entrepreneurs (President of the Republic of Kazakhstan, 2015).

There also a specialized Commission on transferring of functions to the competitive environment (to the private sector). The functions of this second Commission include:

- defining the list of functions to be transferred into the competitive environment for each state body
- selecting a form of function transfer (state order, outsourcing, at the expense of service recipients, self-regulation)
- analysing the preparedness of the competitive environment for the performance of transferred state functions, taking into account regulations, price and quality criteria
- considering the function transfer rules prepared by state bodies
- developing a system for the monitoring and oversight of the transferred functions.

As a new actor in the process of decentralisation, it is still too early to assess the impact of the commission's work on addressing these five problems. Though the commission was created in part to enhance public participation, its power and capacity to meaningfully open up discussions to non-governmental interests may need to be further strengthened. In fact, the presence of the commission appears to reinforce the decentralisation process at the central level. To ensure greater local ownership, Kazakhstan may benefit from including local executive bodies as members of the commission.

Decentralisation in Kazakhstan establishes the foundations for multi-level governance

Kazakhstan began the decentralisation of government programmes in 1996 and this process has continued in a phased approach in keeping with the country's development plans. Overall, the process of transfer of governmental functions from the central government to local executive bodies has occurred at a steady and ordered pace, reflecting the country's centralised system of government. Though international experience suggests that processes of decentralisation will face difficulties and impediments, these have been absent from Kazakhstan's experience. Carrying the imprimatur of the President and the government, the process of decentralisation can be said to have been welcomed at all levels of government and by the public.

Beyond the support of the national leadership, another factor which has contributed to the smooth implementation of decentralisation can be explained by Kazakhstan's system of government. Kazakhstan's unitary and presidential system provides the central government with all the power to shape the responsibilities of the various tiers of government to suit centrally determined policy priorities and ensure their implementation through its legislation and administrative powers.

In fact, the transformations brought about by the Plan of the Nation will accelerate the process of decentralisation. Though it is too early to assess the outcomes of these reforms, it is clear that these will significantly increase the roles and responsibilities of local governments. Yet, there appears to be very little progress towards multi-level governance in these reforms. Decentralisation – the distribution of public policy responsibilities – could be described as merely the first stage in the transformation of Kazakhstan's governance insofar as it relates to local government. Multi-level governance – the continuous interaction between governmental actors – would be next stage.

Whereas decentralisation presents many advantages to both governments and public service users, it may also present several challenges, notably where it leads to disparities of services between regions and reduced efficiency, for example. Some degree of control needs to be retained at the centre in order to counter-balance these potential negative effects of decentralisation (Rodriguez-Pose and Gill, 2003). Multi-level governance, which takes into account both the interdependence and autonomy of governmental actors, provides one means of achieving this balance. As Charbit (2011) notes, this interdependence stems from institutional, financial and socio-economic factors (Touati et al., 2015).

Multi-level governance exists where interdependent actors share responsibility over certain areas of public policy. To date, the process of decentralisation in Kazakhstan has been focused on the transfer of functions. What appears to be lacking in these reforms is the establishment of institutions or processes that would support the development of multi-level governance. So far the reforms have not shifted the balance of power between the central government and local executive bodies. As discussed in terms of fiscal decentralisation, the central government continues, and is likely to continue, to define the roles of local governments and the resources that will be available to them to discharge these roles.

Thus, to increase the effectiveness of Kazakhstan's decentralisation reforms and shift the mode of governance towards multi-level governance will require establishing means for co-operation between levels of government.

Kazakhstan should establish modes of co-operation and dispute resolution between tiers of government

International experience suggests that the increased decentralisation is accompanied by rise of co-operative arrangements (Forum of Federations, n.d.; Openskin, 2002). Though it is inevitable that disputes will occur between tiers of government, for the most part the relationships between Kazakhstan's levels of government can be described as co-operative. However, as Kazakhstan proceeds with further decentralising government functions, modes through which to co-operate across tiers of government will become more important.

In the case of Kazakhstan, relations between tiers of government show no apparent disputes. As such, Kazakhstan's system of relations between tiers of government makes little allowance for establishing the institutional or other conditions necessary for co-operative arrangements to emerge. This is largely due to the subordinate role played by regional governments. Regional governments principally focus on the implementation and delivery of national public policies and programmes.

Therefore, in Kazakhstan modes of co-operation exist, though these must be inferred from the existence of other mechanisms. For example, the centralised approach to planning serves as a means to frame the relationships between the tiers of government and, by extension, their respective roles in the delivery of government priorities. The five-year territorial development plans, which require interactions between the Ministry of National Economy, other national government bodies and local executive bodies, ensure policy and programme co-ordination (OECD, 2015).

Kazakhstan's approach to executive level co-operation also includes the extensive use of information technology as a means for facilitating the exchange of information between regions and with the central government. In addition, meetings and seminars involving officials are another frequent means of interaction and co-operation. However, officials remain cautious in their interactions and ensure that these remain within the boundaries of their responsibilities established by law (OECD, 2015).

Legislation has also been used to frame intergovernmental relationships by establishing the legal framework for the responsibilities of each tier of government. These laws therefore enable co-ordination and co-operation insofar as they are specific. For example, the Budget Code and the Law on Local Government and Self-Government in the Republic of Kazakhstan enable the decentralisation of responsibilities by establishing the financial conditions for such transfer of responsibilities (OECD, 2015).

However, as should be clear, co-operation and co-ordination occur only insofar as local executive bodies drive forward the policies and priorities of the central government. Looking forward, it appears that both the central and regional governments have yet to be seized with the potential and consequences of decentralisation and the need to ensure mechanisms for co-operation and co-ordination that rely on mutual objectives and agreements rather than solely on the direction of the national government.

Across the globe, the experience of countries which feature multiple tiers of government shows that disputes between levels of government are inevitable and, for this reason, most countries have established mechanisms for the identification, prevention and resolution of such disagreements. The sources of these disagreements may arise from several sources, including:

- central government direction to enforce uniform approaches to policy and administrative matters
- conflicting perspectives over the capacity and role of central and local governments over policy and administration
- differing policy priorities, such as between issues deemed important at the national and local level, and sequencing and implementation of policies
- mismatch between responsibilities and resources available to each level of government
- contextual factors such as policy and political conflicts between officials and politicians.

These and other factors are sources of disputes that are not limited to any policy area and may often occur in combination with other factors (Wise and Brown, 1999).

In light of international experiences, disputes between levels of government are therefore also bound to occur in Kazakhstan. For the most part these disagreements have tended to concern issues associated with the implementation of central government policies and associated programmes. As a consequence, the differences of views are resolved at the level of officials and rarely escalate to senior levels of government, such as between the *akimat* and the territorial unit of a national ministry (OECD, 2015).

Box 3.9. **Dispute resolution mechanisms**

Japan's Central-Local Government Dispute Resolution Council

In order to establish a new relationship based on fairness and co-operation between the central and local governments, the Central-Local Government Dispute Resolution Council was set up to deal with disputes between the two levels of governments. This is an advisory organ of the Ministry of Home Affairs (now the Ministry of Internal Affairs and Communications), and is based on the Central Government Organization Act. The system takes a council form and examines the intervention of central government into local government and makes recommendations from a neutral point of view. The commission's power, structure and procedures to examine are stipulated in the Local Government Law.

Spain's Constitutional Court for resolution of conflicts

The Spanish Constitutional Court – as a neutral instance for the resolution of conflicts – has been playing an essential role in building the territorial open model established in the 1978 Constitution.

The complexity of the Spanish system has been shown in an important number of conflicts since its enforcement. This complexity derives from, on the one hand, the fact that at the moment of attaining self-government, autonomous regions did not receive a uniform set of competences, but a specific one, tailored to their respective situations; and on the other hand, because of the fact that it is a system in which certain fields are shared and, as a result, functions – rather than complete areas – are distributed between the state and regions.

Therefore, on specific topics, both parties may be entitled to take action, according to their particular functions (legislative, co-ordinating, regulating, executing or controlling), e.g. the state may be competent to pass the law and then the region can approve the secondary regulations and controls its execution. To make their respective competences compatible and functional, the state and the regions require efficient mechanisms for co-operation and conflict resolution to ensure the smooth operation of the system.

Box 3.9. Dispute resolution mechanisms (*cont.*)

The advantages of utilising the procedure of arbitration are: taking the drama out of the conflict and promoting a diplomatic confrontation; the resolution then appears as a result of reasonable arguments that justify the sense of the failure; and the creation of a constitutional jurisprudence with binding effects for all public authorities.

The Constitutional Court has different mechanisms. Two of them have played an important role in building the territorial model: appeal on the grounds of unconstitutionality and the positive conflict of competence (when both parties – the state and one region – consider themselves competent to act). In addition, the Organic Law on Constitutional Court (Article 33.2) established a mechanism for conflict resolution via bilateral negotiations (state-region). Other mechanisms have had a minor role in territorial conflict: the negative conflict of competence (when neither the state nor the region considers themselves competent to act) and the unconstitutional question.

Sources: Japan Local Government Centre (n.d.); Tribunal Constitucional de España (2008), “Competences”, webpage, www.tribunalconstitucional.es/en/tribunal/competencias/Pages/Competencias.aspx.

The dispute resolution mechanisms for higher level disagreements, such as those associated with the factors outlined above (e.g. resource issues) reflect the main features of Kazakhstan’s public governance. These mechanisms rely on the intervention of the President or the central government to provide direction when views diverge. Therefore, where the local executive body and a national ministry disagree, the matter is referred to the central government, which will typically adjudicate on the basis of legal instruments (i.e. presidential decrees, laws and regulation) (OECD, 2015). This system of intergovernmental dispute resolution therefore highlights deference to central government authority.

At present, Kazakhstan appears to have few mechanisms neither to address the sources of potential disagreement between levels of government nor to acknowledge the differing perspectives each tier of government may have on issues of policy and service delivery. Although referring to central government direction to resolve differences with reference to legal instruments or national policy directions may be expedient, it may potentially over time exacerbate differences between governments by pushing the source of the disputes forward. As is the case with co-operation and co-ordination, the resolution of disputes appears to currently occur mainly through the involvement of the central government, thus leaving limited room for consideration of local circumstances. Looking forward, it appears that neither the central nor the regional government has yet to be

seized with the need to establish means for resolving disputes through mutual means of resolution, including informal means.

Recommendation

Strengthen a mechanism to arbitrate any issues that arise between levels of government to facilitate the independent, balanced, open and transparent review of issues brought before it for resolution.

Multi-level governance should rest on the foundation of co-operation and co-ordination among local governments

In most countries the drive to decentralised government responsibilities has introduced a degree of complexity in the management of relationships between levels of government. These relationships gain further in complexity when the transfer of functions is matched by increased fiscal, political and administrative decentralisation (Charbit, 2011: 13-15). In addition to the means to foster co-operation and resolve disputes, Kazakhstan may benefit from investing in the development of co-ordination bodies.

One approach to this problem is to clearly identify the relative responsibilities of each level of government in terms of terms of design, regulation, budget and implementation. Overlapping responsibilities are not per se a concern if effective means of co-ordination are in place. In the absence of effective co-ordination, co-ordination “gaps” may arise, leading to shortcomings in public policy management (Charbit, 2011: 14-15).

When new issues emerge, policy “vacuums” may become evident. These occur when the responsibilities of governments are not clearly defined. Without effective co-ordination mechanisms in place, the issues are left unaddressed. Table 3.1 suggests a means of identifying the co-ordination gaps and of addressing them.

Table 3.1. “Mind the gaps”: A diagnostic tool for co-ordination and capacity challenges

Gap	Diagnostic tool
Information gap	Asymmetries of information (quantity, quality, type) between different stakeholders, either voluntary or not => Need for instruments for revealing and sharing information
Capacity gap	Insufficient scientific, technical, infrastructural capacity of local actors, in particular for designing appropriate strategies => Need for instruments to build local capacity
Funding gap	Unstable or insufficient revenues undermining effective implementation of responsibilities at subnational level or for crossing policies => Need for shared financing mechanisms
Policy gap	Sectoral fragmentation across ministries and agencies => Need for mechanisms to create multidimensional/systemic approaches at the subnational level, and to exercise political leadership and commitment
Administrative gap	“Mismatch” between functional areas and administrative boundaries => Need for instruments for reaching “effective size”
Objective gap	Different rationalities creating obstacles for adopting convergent targets => Need for instruments to align objectives
Accountability gap	Difficulty to ensure the transparency of practices across the different constituencies => Need for institutional quality measurement => Need for instruments to strengthen the integrity framework at the local level => Need for instruments to enhance citizen's involvement

Source: Charbit, C. (2011), “Governance of public policies in decentralised contexts: The multi-level approach”, <http://dx.doi.org/10.1787/5kg883pkxkhe-en>.

The “gaps” which may emerge from this analysis not only concern the interdependence among public actors, they also concern the relationships among the actor and the risk associated when co-ordination is lacking (Charbit, 2011).

Several mechanisms are available to co-ordinate public policies in decentralised contexts while at the same time reinforcing capacity at different levels of government. These instruments may be more or less binding, flexible and formal. As such, they can be adapted to the circumstances. Each “co-ordination mechanism” can help bridge different gaps and one specific challenge may require the combination of several tools (Charbit, 2011). For example, Box 3.10 presents the Spanish model for co-ordination among tiers of government.

Box 3.10. Co-ordination model: Spain

The Spanish system of territorial powers is based on a co-operative multi-level model among administrations.

The co-operation techniques try to facilitate consensus through plans, programme agreements and contractual forms, and without the use of coercive aspects. The model can force parties to negotiate, but it cannot force them to agree. The key for an agreement consists in both sides to “win” something, so without extra funding, co-operation sometimes may be difficult.

The differences among “co-ordination-collaboration-co-operation” require different strategies and mechanisms:

- Co-ordination is a state concept; it has full regulatory competencies and functions of control and impulse, as a general principle of acting. Co-ordination appears explicit in the Constitution (Article 149.1).
- The concept of collaboration is implicit in the idea of public service. It does not imply enlargement of the state’s competencies. Collaboration cannot be imposed but the refusal of collaboration must be justified; it should be based on dialogue and consensus.
- Finally, co-operation is based on wilfulness. It is a relationship based on respect for the respective powers and functions. It requires a flexible and appropriate approach, guided by constitutional loyalty and a constructive spirit.

As organs of co-operation, the Spanish system counts on multilateral and bilateral mechanisms:

- The multilateral (among the state and all the regions) mechanisms are: Conference of Regional Presidents (a forum at the highest level); sectorial conferences (39 different sectors at ministerial level); over 150 second-level, monitoring committees (general director level); and more than 500 third-level (working committees of experts) committees.
- The bilateral (between the state and a specific region) mechanisms are: joint commissions for transfers (for the transfer of facilities and means to regions); and bilateral commissions.

Source: Ministerio de Hacienda y Administraciones Públicas (n.d.), “State regional policy (autonomous communities)”, webpage, www.seap.minhap.gob.es/en/web/areas/politica_autonomica.html.

Table 3.2 presents a selection of instruments and country examples. These instruments have in common incentives that influence actors towards sharing information and objectives. At the same time, they reinforce individual and collective capacity (Charbit, 2011).

Some instruments may be more comprehensive than others. Similarly, the choice of instrument may not be exclusive, as several instruments may be combined to achieve the public policy objective (Charbit, 2011).

Table 3.2. **Co-ordination and capacity gaps**

Mechanism	OECD examples
Contracts between levels of government	Canada, France, Italy, Spain
Evaluation, performance, measurement, including financial control	Norway, United Kingdom, United States
Grants, co-funding agreements	All countries: general purpose grants vs. earmarked; equalisation vs. regional development mechanisms; different types of conditions attached
Strategic planning requirements, multi-annual budget	Along with investment contracts and medium- and long-term objectives
Inter-municipal co-ordination	Mergers (Denmark, Japan) vs. inter-municipal co-operation (Finland, France, Germany, Spain, etc.)
Inter-sectoral collaboration	One umbrella ministry vs. horizontal inter-ministerial mechanisms (all countries are concerned) Instrument to be related with vertical mechanisms for supporting cross-sectoral implementation at the subnational level (intermediation bodies) (Australia, France, etc.)
Agencies (specialised or generalist)	Agencies for regional development: Canada, Chile Agencies for specific policy fields (health, water, innovation): Australia, France, Spain
State territorial representatives	French prefects, Polish <i>voivoid</i> , heads of county administrative boards (Sweden), Italian prefects
Experimentation policies; tender processes	Finland, France, Germany, Sweden, United States
Legal mechanisms and standard settings	All countries define standards and set regulations, but their degree of implementation across levels of government varies
Citizens' participation	Great variety of tools and degrees, often more dynamic at the subnational than at the national level
Private sector participation	All countries with dominant sectors of implementation (like network industries). From strategy design to operator of infrastructure to service provider of services and technical assistance.
Institutional capacity indicators	Italy for subnational level

Source: Charbit, C. (2011), "Governance of public policies in decentralised contexts: The multi-level approach", <http://dx.doi.org/10.1787/5kg883pkxkhc-en>.

The challenges associated with decentralisation and multi-level governance occur in institutional frameworks which are specific to each country. The decentralisation of government functions is the starting point of a process, rather than an end in itself.

In the case of Kazakhstan, it is clear that decentralisation is one of the keystone reforms to be implemented as part of the Plan of the Nation and the national development plans which preceded it. Yet, moving responsibilities from the central to local governments will inevitably change the nature of intergovernmental relations. Therefore, as Kazakhstan moves forward with its reforms, now is the time to establish the institutions and the practices that will enable the full realisation of decentralisation’s potential to improve services, enhance public participation and increase self-governance.

One means of encouraging co-ordination and co-operation is by developing capacity for lower tier governments to work and learn from each other. At the same time, the ability of lower tiers of government to build networks of interest can be used increase the attention to local government concerns. In several OECD countries this occurs through organisations which serve to bring together the interest of local government actors. As politically neutral organisations, these bodies work on behalf of local government and are able to influence the national government and enhance their role in delivering locally based solutions to national problems. Examples such as France’s Association des administrateurs territoriaux, the United Kingdom’s Local Government Association or Canada’s Federation of Canadian Municipalities play an important role in building capacity in local governments and in representing the interests and perspectives of the local level of government before central government authorities.

Recommendation

Strengthen channels to enable participation of a wide range of local and national governmental and non-governmental stakeholders in national discussions on the role of local governments.

Conclusions

International experience shows that countries are increasingly considering the decentralisation of government functions as a means of improving the effectiveness and efficiency of government policies and programmes as well as of improving the responsiveness of these to local citizens’ expectations and needs. Kazakhstan has embarked on the path of decentralisation for similar reasons. Though launched only shortly after independence from the Soviet Union, in 1996, the process of transfer of responsibilities gained additional momentum as a consequence of the two main national development strategies, Kazakhstan 2030 and Kazakhstan

2050, and most recently from the Plan of the Nation – 100 Steps to implement Five Institutional Transformations initiative.

Decentralisation in Kazakhstan has largely been about the transfer of responsibilities between tiers of government, but it has also served as a means of enhancing the role of local executive bodies and introducing the democratisation of some aspects of local government. Though the importance of these changes is not to be underestimated, there is much scope for additional improvements and reforms. Several have been proposed in this report.

For the most part, the steps to be taken by Kazakhstan in light of the recommendations of this report seek to build on the steps already taken to open up and democratise the country and are consistent with the national priorities. For example, opening up the process of decision making over decentralisation to non-governmental stakeholders is consistent with the government's goals of fostering transparency and accountability. Furthermore, the role of non-governmental actors could be further enhanced by including them to a greater degree in the development of plans and priorities at the local executive level and in their implementation. Increasing the role of the non-governmental sector at the level of local government could be an important step towards addressing the low level of public participation in government decision making that was noted in the 2014 *Review of Kazakhstan's Central Administration* (OECD, 2014b: 269).

At the same time, the accountability of local executive bodies needs to be enhanced by giving them greater control over their resources. Accountability to citizens can also be enhanced by further democratising the process of appointment of *akims* and enhancing the role of *masklihats* in the oversight and accountability regime of *akimats*. Though Kazakhstan must be cautious not to create needless duplications in its accountability and oversight regime, mechanisms to enhance local accountability of local institutions should proceed in tandem with the process of decentralisation.

Kazakhstan is a unitary government and, as a result, the central government will continue to be a key actor in the governance of the country. Yet it may consider giving greater policy and financial autonomy to local governments to fully realise the potential that could accrue from decentralisation. This could enable the full realisation of the improvements in the effectiveness and efficiency of the public administration.

Looking forward, Kazakhstan has established a solid foundation for decentralisation and the realisation of the potential offered by multi-level governance. Therefore, rather than a broad array of reforms, Kazakhstan can reap the full benefits of the steps taken to date through adjustments and refinements to its existing system of governance.

Notes

1. Fiscal equalisation is a transfer of fiscal resources across jurisdictions with the aim of offsetting differences in revenue-raising capacity or public service cost. Its principal objective is to allow sub-central governments to provide their citizens with similar sets of public services at a similar tax burden even if incomes differ across areas (Blöchliger and Charbit, 2008).
2. Equalisation also occurs within *oblasts*, among individual *raions* and cities of *oblast* subordination (World Bank, 2012: 10-11).
3. Article 55 of the Budget Code lists the authorised expenditures for cities of republican significance.

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This review examines the reforms undertaken by the government of Kazakhstan in the area of public governance and evaluates their impact on the powers and responsibilities of subnational levels of government. It places particular emphasis on finding the right allocation of roles and responsibilities among different levels of government, and on using decentralisation as a means to increase self-reliance, civic participation, accountability, and enhanced capacity at the local level. The report also offers a number of recommendations for further strengthening the role of local executive bodies and democratising some aspects of local government.

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