

Republic of Kazakhstan

(Қазақстан Республикасы)



Capital: Astana

Inhabitants: 15.217.711 (2006)

Area: 2.724.900 km²

1. Introduction



Kazakhstan is a unitary state located in Central Asia. Its territory is 2 724 900 sq. km, making it the 8th largest country in the World. The Population totals 15.074.200. Kazakhstan, since independence 1991, has a presidential form of government. The capital is Astana.

1.2 Main stages of development.

The first stage of the development of local self-government (1991- 1993) started after the dissolution of the Soviet Union. During this period the system of local soviets was existing on the basis of the Law "On Local Self-government and Local Soviets of People's Deputies of the Republic of Kazakhstan". Local soviets have double nature: they were functioning as organs of local state government and organs of local self-government. This Law provided also for the establishment of organs of territorial public self-government. The lack of local property and

own tax revenues, concentration of powers in organs of central government prevented the formation of genuine local self-government. In 1992 the new institution of heads of local administrations was established. They were appointed by the President and higher heads of local administration and substituted executive committees of local soviets. Local administrations accumulated actually all powers and the role of local soviets was reduced to naught. As a result by the end of 1993 the majority of local soviets dissolved themselves.

At the second stage new local organs were established: councils of deputies (maslihats) and local executive organs (akims) which substituted heads of local administrations. They were functioning on the basis of the Constitution dated January 28, 1993 and the Law dated December 10, 1993 "On Local Representative and Executive organs of the Republic of Kazakhstan". The Constitution of 1993 rejected the idea of local self-government and laid down only the status of state organs.

The third stage was launched by the adoption on August 30, 1995 of the second Constitution of independent Kazakhstan. On January 23, 2001 the President signed the Law "On Local State Government in the Republic of Kazakhstan". According to this



Law, the system of local government is composed of organs of local government and organs of local self-government. Local state government is represented by local councils ("maslihats") elected by population for a term of 4 years in provinces (oblasts), regions (rayons) and cities of republican and provincial subordination, and by akimates, collegiate executive organs formed of akims, their deputies, heads of structural divisions and local branches of akimates. Akims of provinces are appointed by the President on the proposal of the Prime-Minister. The procedure for election or appointment of akims of other territorial units is determined by the President. The majority of akims are appointed by higher akims. In August 2001 experimental elections of akims were held in aul (rural) circuits and settlements (the akims of settlements were elected indirectly by boards of electors). In 2005 new experimental elections of akims of regions were held (they were elected by local councils upon proposal of provincial akims).

The fundamentals of local self-government are laid down by Article 89 of the Constitution, but organs of local self-government still have not been formed because there is no the law on local self-government. In several regions experimental committees of local self-government have been established on the initiative of local organs.

The fourth stage in the development of local self-government may be launched by the enactment of legislation on local self-government. Appropriate draft law has been elaborated. It provides for establishment of local self-government in auls (villages), settlements, city districts and cities.

2. Territorial organization

Territorial division is regulated by the Law dated December 8, 1993 "On Administrative Territorial Structure of the Republic of Kazakhstan". It provides for two categories of administrative territorial units: territories (regions, districts - or rayon, aul or rural circuits) and populated areas (cities of republican, regional and district subordination, settlements, auls, villages). Currently there are 14 regions, 84 cities (out of which 39 of republican and regional subordination), 159 districts, 241 settlements, 2 042 aul (rural) circuits.

Astana, the capital of the Republic, has a special status established by the Law dated May 20, 1998 "On the Status of the Capital". Additional powers were provided to Almaty by the Law dated July 1, 1998 "On the Special Status of the City of Almaty".

There are no autonomous units in the Republic, except the Baikonur space facility, which is in fact Russian territory.

The last territorial reform took place in 1997 when five regions were abolished as a result of territorial mergers.

On January 1, 2006 the share of local expenditures in the aggregate volume of public services totaled 40,26% (in 1994 and 2000 these figures were on the level of 44 % and 50,8 % accordingly). There is stable tendency to decrease this share.

3. Institutions of local government

3.1. Local political systems.

There are 12 registered political parties in Kazakhstan. There are no local parties, because any party must have its branches and local structures numbering no less than 700 persons in each of the provinces.



The Constitutional Law dated September 28, 1995 "On the Elections in the Republic of Kazakhstan" provides for the elections to local state representative organs (maslihats) and organs of local self-government. Elections to maslihats took place in autumn 2003. They were competitive. In some electoral districts 5 to 7 candidates were competing. About 63,4% of candidates were nominated by political parties.

The amendments to the Constitution of 1998 made it possible to held elections of akims of regions, cities, settlements, aul (rural) circuits and aul (villages). The procedure for their elections shall be determined by the President. The first experimental indirect elections of akims of lower level took place on the basis of the Decrees of the President dated June 23, 2001 and December 6, 2004.

Direct elections of lower akims are held in administrative territorial units with population less than 5 000; indirect elections are held in units with population exceeding 5 000. Candidates shall be citizens of the Republic, older than 25, they shall reside in appropriate units and correspond to the requirements established for state employees.

On August 12, 2005 experimental elections of akims of districts (rayon) took place. The Republican Network of Independent Observers conducted long-term and short-term monitoring studies which showed that the majority of population were deprived of full value information about elections.

At the elections of akims and local representative organs majority electoral system is used.

3.2.Participation of citizens.

More than 6.8 mln. electors (76.78% of registered electors) took part in the

presidential elections, meanwhile participation of citizens in local elections was extremely low. For instance, only 13.5% to 31.3% electors took part in the second round of elections to Almaty city council, in average 22.8% (more than three quarters of electors abstained from participation). Local elections showed that the attitude of citizens to local policy and local organs is as a rule indifferent and even negative. Such attitude is explained by a high level of corruption in local executive organs, heartlessness and bureaucratism of local state employees, mistrust in deputies.

There were two national referendums in the Republic. Local referendums and other forms of direct democracy are not provided by law. Citizens may influence the policy of state organs and the content of laws and local acts indirectly by making proposals to state organs.

Legislation does not regulate participation of population at sub-municipal level. Nevertheless, some sprouts of local self-government do exist. Cooperatives of owners of residential premises have been formed. In some territories (Almaty, Qostanay) local bodies have established committees of local territorial self-government. Provisional Rules On the Local Self-government in Almaty (February 13, 2002) launched an experimental model of local self-government in the Turksib district of Almaty. Committees of local self-government are elected at meetings and conferences of people residing in these territories. Chairmen of such committees are elected at the conferences and approved by Almaty City Council. These bodies are responsible for providing social-economic and cultural development of territories, social needs of population, making proposals for improving and exercising control over local state management and so on. This model combines elements of local self-



government and territorial voluntary self-government.

Currently there are plans for rooting e-government with the aim to accumulate information about local government bodies, to promote access of citizens to such information, to provide public services (receipt of information, drafting documents and etc.).

Traditional institutions have not been preserved in Kazakhstan.

4. Relations between central and local organs

Legal fundamentals of local self-government are regulated by Article 89 of the Constitution. It prohibits institutional mixture of state organs and organs of local self-government. It defines in general terms the territorial scope of local self-government: city and rural communities. It does not describe functions and spheres of activities of local self-government. These issues will be regulated by a special law. The Constitution contains a closed list of forms of local self-government: elections of bodies of local self-government, activities of bodies of local self-government and the right of citizens to petition these bodies. The procedures of bodies of local self-government will be determined by residents of respective territories. The state will define only general framework of their powers and procedures. Beyond such general guidelines bodies of local self-government will be independent. The state will provide for economic, legal and organizational guarantees of local self-government.

The elaboration of the Law "On Local Self-government" was planned for 2006. The delays in the enactment of this Law is explained by the absence of well-conceived concept of local self-government, excessive

centralization of management functions and by lack of own budgets.

Acts on local self-government may be enacted by the Parliament, President, Government, Ministry of Finance, other organs of central power, local representative and executive organs.

There are no specialized state organs responsible for local affairs. Recently the State Commission on Division of Powers between Levels of State Management and Improvement of Inter-Budgetary Relations has been established.

On December 7, 2001 the Government adopted the Conception of the Regional Policy of the Republic of Kazakhstan. It is intended to equalize social-economic development of territories by implementing investment projects improving infrastructures, economic activities and increasing the population standard of living, and desserving at the same time support to depressive territories. For solving these issues the Government has established the Interdepartmental Commission on Regional Policy. Local organs have also established such bodies. For instance, Aqtobe provincial akimat has formed the Council on Regional Problems (Act dated March 12, 2002).

General control over organs of local government is exercised by (1) the President (provincial akims are responsible to the President, he may revoke and suspend their acts, remove them and give them errands); (2) the Government (it may supervise execution of laws and other acts by local executive bodies, revoke or suspend acts of local executive bodies); (3) Senate of the Parliament (it may terminate ahead of time powers of local councils); (4) courts (they consider suits of citizens and corporate persons against actions or inaction of local bodies); (5) prosecutor's office (it exercises general



supervision over strict observance of the Constitution, laws and other normative acts); (6) local councils (they control execution of plans, programs of the development of territories and local budgets, they may express non-confidence to akims and address the President or higher akims with the request to remove them from their posts); (7) local executive bodies (they exercise general control over lower executive bodies (akims and akimates)).

Financial control is exercised by (1) Accounting Committee for the Control over Execution of the Republican Budget; (2) local representative bodies; (3) central bodies of internal control. Branch control is exercised by local representative and executive bodies.

The powers of local councils may be terminated ahead of time upon presentation of the General Prosecutor in the events of systematic violations of the Constitution and laws; failure to determine their structures and to elect their organs within 30 days from the day the first session was convened; reorganization or liquidation of administrative territorial units; self-dissolution by a vote of two thirds of deputies; insurmountable contradictions with akims (two successive non-approvals of local budgets, plans of social economic development and government schemes of territories). The latter ground was introduced as an element of checks and balances at local level. But actually it deprives deputies of independence. Only the first ground of ahead of time termination of powers corresponds to common sense.

The majority of acts of local councils contravening the Constitution and laws are revoked by courts. Higher representative organs do not have such right.

Local executive bodies form an uniform system of organs of state executive power. Akims of provinces are appointed and removed by the President, lower akims are appointed and removed by higher akims. The law does not provide for the termination of akimates as collegiate organs. It is stipulated that they are responsible to local councils, but concrete forms of such responsibility are not specified.

Conflicts between representative and executive bodies are mainly solved by courts in the procedure as established by the Civil Procedure Code. Though the legislation does not provide for pre-judicial adjustment of disputes, local bodies often resolve their disputes through negotiations and search of compromises. The most active role belongs to prosecutors who are entitled to address local bodies with protests against acts contravening laws and to file suits in courts in the event their protests are not satisfied.

Cases in court are often initiated by private enterprises on the grounds of violations of laws by additional duties and charges, restrictions of competition, interference into entrepreneurial activities. Courts consider such cases in a special procedure as stipulated by chapters 27 and 28 of the Civil Procedure Code.

5. Functions of local organs

Main functions have been financed by the aggregate budget in the following proportions as on January 1, 2004, January 1, 2005, January 1, 2006:

- education: 26,58%, 27,33%, 27,25%;
- health care: 15,01%, 15,46%, 19,18%;
- residential-communal economy: 6,22%, 7,09%, 14,79%;
- transport and communications: 4,16%, 5,35%, 5,69%;



- social aid and social services: 9,15%, 8,35%, 4,36%;
- culture, sport, tourism, information : 3,75%, 4,36%, 4,3%;
- general state services: 3,2%, 4,43%, 3,57%;
- public order, security, legal, judicial, criminal correction system: 4,22%, 3,7%, 3,55%.

In the field of planning the Government elaborates state programs and presents it to the President for his approval. Local organs elaborate and enact local programs and plans of economic and social development.

In the field of education central government is responsible for higher education, institutions for improving qualification of employees of central governmental bodies and for certain kinds of primary and secondary education (for gifted children, military schools and so on). Local government is in charge of primary, general secondary, professional secondary education, institutions for improving qualification of local employees.

In the social sphere central government is responsible for payment of pensions and special state allowances (to veterans of war, victims of Chernobyl catastrophe, Stalin's repression, residents of ecologically dangerous districts and so on). Local government pays burial allowances, allowances to unemployed, large and incomplete families, lonely mothers, grants for paying housing rents. The republican budget finances republican museums, theatres, historic-cultural sites, production of films. Local government supports local museums, zoo parks, stadiums, organizations providing cultural services.

In the field of health care central government is responsible for centralized supply of vaccines, prophylaxis and prevention of dangerous infections, AIDS,

tuberculosis, bird flew, production of blood substitutes, maintenance of republican hospitals and clinics and medical research centers. Local government finances local hospitals, ambulatory care centers and clinics of general profile, specialized hospitals, tuberculosis dispensaries, diagnostic centers, prevention of, and struggle with dangerous infections at local level, primary medical aid to, and medical posts for, rural population.

In the sphere of water and energy supply central government is responsible for improving the management of water resources and energy supply, exploitation of state objects in this sphere, investments in infrastructure. Local government assists in exploitation and maintenance of local objects, provide subsidies to users. However, local budgets are not always able to provide adequately the management and maintenance of these objects due to the shortage of means and shabby state of systems and networks.

The sphere of public transport is mainly decentralized. Maintenance and exploitation of local automobile, water (river), electric transport (tram, trolleybus, metro) are financed by local budgets and are managed by private carriers functioning under control of, and in accordance with licenses issued by, local governments. Air, railway and sea transport is in the province of the centre.

Central government provides support in economic development by creating normative basis of entrepreneurial activities, improving favorable regimes of taxation and state registration (by implementing the principle of "one window") for businesses, attracting internal and external investments and so on. Local government is in charge of licensing of entrepreneurial activities on local level, giving consent to construction of communal networks and facilities,



organizing tenders for the provision of local services and the sale of objects of communal property.

On the whole, the separation of functional powers between republican and local levels is carried out in accordance with the trends of state policy of decentralization of state functions and improvement of inter-budgetary relations. The Law dated December 20, 2004 "On Amendments to Legislative Acts of the Republic of Kazakhstan Regulating Separation of Powers between Levels of State Management and Budget Relations" provides for transfer of powers from central to local organs. This act was followed by the Law dated January 10, 2006 "On Amendments to Legislative Acts Regulating Separation of Powers between Levels of State Government". The main part of powers is absorbed at the regional level. As a result, the role and responsibility of lower government levels is limited.

There is no deconcentration of local power: local councils are not taking part in the process of redistribution of powers. Decentralization means distribution of powers between all levels and branches of government and it is inseparably connected with democratization. This requires broader participation of representative organs of population in matters of local development and their responsibility for the state of affairs in respective territories.

Decentralized functions include in the main: management of secondary education, services of the residential-communal economy, health care, public transport. Centralized main functions embrace local taxes and payments, support of small business, support to agriculture, protection of public order.

6. Local finances

Local revenues. Local organs have no right to establish taxes. The Budget Code determines state taxes which shall be directed to local budgets: income tax on physical persons; social tax; property tax on physical persons, individual businessmen and corporate persons; land tax; tax on transport means of physical and corporate persons; excises on all kinds of alcohol and alcohol containing products, tobacco and tobacco containing products, gambling and lotteries, motor cars (with the exception of cars specially intended for invalids) produced in the territory of the Republic, gasoline (with the exception of aviation gasoline); duties and charges. Tax rates are prescribed by the Tax Code or determined by the Government. Local councils have the right to define within the established frames general rates of excises on objects of gambling business for all taxpayers exercising their activities in their territory, to decrease or increase rates of land tax up to 50 % of basic rates.

Local budgets are formed by higher authorities. Local bodies do not have significant impact on this process. Actually local revenues and expenditures are defined by the Ministry of Finances which is entitled to calculate controlling figures and establish the dimensions of subventions and withdrawals. Local budgets are approved only after adoption of the republican budget when total sums of subventions and withdrawals (from tax revenues of richer local governments) are approved.

According to the Ministry of Finance the dynamic of local revenues during the last three years (2004, 2005, 2006) was as follows, according to their share in total local budget revenues:

- tax revenues – 76,39%, 70,71%, 58,2%;



- official budgetary transfers – 19,81%, 25,28%, 37,1%.

So, the share of inter-budgetary donations is high and has the tendency for constant growing.

Varying economic potential of territories (some of them are industrially developed, others agricultural, third have rich natural resources) explains different ratio in revenue sources. So, in Almaty city tax revenues total 75,68% and transfers – 14,5% of aggregate revenues, in Atyrau province, accordingly, 87,81% and 8,96%, South Kazakhstan province – 35,32% and 62,91%, Qaraghandy province – 70,19% and 27,28%, East Kazakhstan province – 51,68% and 46,54%, Qostanay province – 50,5% and 47,13% and Almaty province – 45,21% and 47,19%.

Since 1999 the state has been using the mechanism of budgetary subventions and withdrawals which are not based on economically substantiated norms and do not stimulate efficient expenditures. Significant shares of transfers decrease incentives of local organs in increasing revenues of local budgets. Donor provinces are deprived of motivation to increase the volume of tax and other obligatory payments. Budgetary withdrawals approved in fixed dimensions actually resemble strict directive plans.

In accordance with the Budget Code the following budgets exist: republican budget, regional budgets, city (of republican subordination) budget, budget of the capital, district budgets, city (of regional subordination) budgets.

Local budgets accumulate payments for pollution of environment; placing of advertisements along local roads of general use; for the use of water resources; payments for state registration of individual businessmen and corporate

persons and for registration of real property and transactions with real property; payments from auctions and licenses; non-tax revenues (incomes derived from communal property, realization of goods (works, services), state purchases by enterprises financed from local budgets, fines and, sanctions imposed by local state organs financed by local budgets and so on).

7. The staff of local government

In Kazakhstan the staffs of local representative organs is recruited according to the fixed ratio: 1 employee to 5 deputies, but not less than 5 employees. The Central Elections Commission defines the number of deputies of each local council depending on the quantity of population and within maximum quotas as established by the Law on Local State Government. Councils of region, Astana and Almaty cities may be composed of not more than 50 deputies, city councils – 30, district councils – not more than 25 deputies. In average, regional councils have 35 - 40 deputies, district and city councils – 10 – 12 deputies. So, the number of employees of staffs of district and city councils is minimal. And as a result, the role of representative bodies is also insignificant.

The staff of local executive bodies is approved by akims on the basis of limits as established by the Resolution of the Government dated December 15, 2004 No. 1324. The aggregate number of the staff of local executive bodies totals 46 546, the biggest number is in East Kazakhstan province (4 485). Akims of regions have 4 – 5 deputies, akims of districts have 3 deputies, akims of settlements and circuits with population exceeding 10 000 have one deputy.



Employees of local state organs are subject to legislation on state public service. Akims, deputy akims and heads of staff of akims of regions, capital and city of republican subordination are attributed to political (appointed) state employees. The majority of employees of the staffs of local councils and akimats are administrative state employees (working on a contractual basis). The duration of their work is not limited to any term, but they are subject to periodic attestations.

The analysis of law-enforcement practice shows that the level of corruption in local government is still very high despite numerous programs aimed to prevent corruption, establishment of appropriate bodies and disciplinary boards, more severe liability for corruption.

8. Conclusion

The main tendencies in the present development of local government are determined by: (1) the process of separation of state functions and budgetary powers between levels of state management, decentralization of management, enhancement of responsibility of organs of local government; (2) gradual increase of the role of local representative organs; (3) reform of the system of local executive bodies, step by step introduction of elections of akims; (4) elaboration of new draft laws on local self-government.

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