



The Fiscal Decentralization Initiative
for Central and Eastern Europe

Legal Status of Local Self-Governments in Central Asian States: Key Issues



The Fiscal Decentralization Initiative
for Central and Eastern Europe

Legal Status of Local Self-Governments in Central Asian States: Key Issues

The Fiscal Decentralization Initiative for Central and Eastern Europe (FDI-CEE) is a grant program established to assist transition economies carrying out inter-governmental reform. It is designed to provide institutions (central governments, parliaments, subnational governments, research institutes, universities and associations of local authorities) with technical and financial resources to analyze problems, develop solutions and implement improvements in local government policy and management.

The FDI seeks to assist transition economies in the areas of capacity-building, institutional strengthening and training and improving fiscal management. Its main objective is to facilitate the analysis of policy options and develop a knowledge base, thereby enhancing the capabilities and effectiveness of newly formed local governments throughout Central and Eastern Europe (CEE) the countries of former Soviet Union (fSU).

The program is driven by the needs of governments and other institutions in the process of fiscal decentralization. Donor agencies support the process with financial and technical resources, and through facilitating access to global knowledge and experience. FDI-CEE uses its grant funds to support activities carried out by CEE institutions and experts who identify key issues and solutions.

The Fiscal Decentralization Initiative for Central and Eastern Europe is a joint undertaking of the Council of Europe; the Organization for Economic Co-operation and Development; the World Bank Institute; the United States Agency for International Development; the Open Society Institute—represented by the Local Government and Public Service Reform Initiative; the Ministry of Interior, Denmark; and the United Nations Development Program.

The FDI-CEE Secretariat—the main contact point for the FDI-CEE—is based at the Local Government and Public Service Reform Initiative (Open Society Institute) in Budapest.

For additional information or FDI publications, please contact:

Local Government and Public Service Reform Initiative—Open Society Institute

Mr. Ondrej Simek
FDI-CEE Secretariat

P.O. Box 519
1397 Budapest, Hungary

Telephone (+36-1) 327-3862/ext. 2402

Fax (+36-1) 327-3105

Email osimek@osi.hu

Internet <http://lgi.osi.hu/fdi> or <http://www.decentralization.org>

Table of Contents

| | |
|--|----|
| Foreword..... | 7 |
| Introduction..... | 9 |
| Definition of Terms | 9 |
| 1. The Position of Local Administrations in the System of Public Administration | 9 |
| The Structure of Public Administration and Administrative Divisions | 9 |
| Levels and Types of Administration and Basic Structural Divisions..... | 10 |
| Status of Local Executive Authority | 11 |
| Community Organizations | 12 |
| Community Bodies | 14 |
| Relationships between Different Levels of Administration | 14 |
| 2. Legal and Constitutional Basis of Local Administration | 16 |
| The Constitution..... | 16 |
| Laws on Local Government | 18 |
| Other Legislation Regulating the Activities of Local Administrations..... | 18 |
| 3. Legal Basis of the Electoral System | 20 |
| 4. Compliance with the European Charter on Local Self-Government | 20 |
| 5. Problems, Development Areas and Next Steps..... | 22 |
| References..... | 24 |
| Relevant Legal Documents..... | 24 |

Foreword

“**L**egal Status of Local Governments in Central Asia: Main Policy Issues” is the third in a series of FDI regional policy studies prepared within a two-year program for the *development of policy proposals and action plans for local government reform* in Central Asia. The program, designed as a result of a regional forum “The Modernization of Local Government Finances and Financial Management in Central Asia,” organized in the fall 2000 by FDI, is targeted at participants from Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan.

The main objective of the program, which combines training with policy research, is to help build local expertise to better design intergovernmental relations and develop local government capacities in the four Central Asian countries. The 26 project participants—*high ranking public administrators, local government actors and independent non-governmental experts*—work over the course of two years in four separate groups on the preparation of policy proposals and action plans for the improvement of local governance in their respective countries. Advisers from Central and Eastern Europe (Czech Republic, Poland, and Slovakia) assist individual groups. Advisers comment on the work of the groups and assist their members with their expertise through an on-line network. Participants in the project have a chance to meet on regular basis and present/discuss outcomes of their work, both with other participants, advisers and other external experts.

The opening workshop for the initiative took place in Bratislava on 30 July–3 August 2001, with follow up workshops organized or to be organized in Bishkek, Dushanbe, Antalya, Almaty and Prague. Each workshop

is devoted to one of the following four policy areas on which participants work within their national teams:

- *Legal status and functions/responsibilities of local government;*
- *Financial viability of local governments;*
- *Capacity building of local government officials;*
- *Citizens participation and information technology in the process of decentralization.*

Each national team prepares a national study within each policy area. Each national team also takes a lead in one of the four policy areas and prepares a regional comparative study based on the input from the other national teams. This stimulates interaction not only between the members of national teams and their advisers but also among individual national teams. All regional studies, like “Legal Status of Local Governments in Central Asia: Main Policy Issues” prepared by the Uzbek participants, will be published under *FDI policy studies* series and disseminated within the four countries of Central Asia. National studies and English versions of regional studies are or will be available on the FDI website.

This FDI project is co-funded and co-managed by the World Bank Institute, UNDP and Local Government and Public Service Reform Initiative of the Open Society Institute.

Ondrej Simek, FDI Secretariat

Tony Verheijen, UNDP

Robert Ebel, World Bank Institute

Legal Status of Local Self-Governments in Central Asian States: Key Issues

Introduction

Since the collapse of the Soviet Union, public administration reform in transition economies has been secondary to the liberalization of prices, privatization and development of entrepreneurship. Reconstruction of the system of government has not been perceived as a serious task partially because it appeared too overwhelming, and partially because too much hope was pinned on the success of economic reforms, which were expected to lead to democratic transformations in legislative, executive and judicial bodies. However, experience has shown that the outdated structure of bureaucratic government often do not modernize under the influence of market reforms. In fact, they become the main obstacles to the implementation of such reform.

This document includes the results of research on the legal situation in four Central Asian republics—Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan. In writing this document, the author has used the reports presented by representatives of these countries at a workshop called “Networks for the Transformation of Local Government.”

The objective of this report is to present a comprehensive review and comparative analysis of local government bodies in these countries.

Definition of Terms

As the terminology existing in different countries is rather specific, we would like to define the terms used in this report. OECD (Organization for Economic Cooperation and Development) countries make a clear distinction between the terms **local administration** and **local government**. “Local (public) administration” is a term applied at the territorial level when the central government “de-concentrates” certain functions to organizations that are still appointed by and accountable to the central government. The main task of local administration is to ensure efficient provision of services for which the government is accountable to its citizenry.

Local government refers to organizations comprising locally-elected representatives. Of course, governmental services should be efficient, but this European model places special emphasis on local concepts and preferences concerning public services, as well as the development of local initiatives to be supported by local governments.

Akims in Kazakhstan and *hokimiyats* in Uzbekistan are **local administrations**.

It should be noted that local elections are not the only characteristic of local government. Not only should local governments be elected, they should have a certain set of competencies and a degree of financial independence. They should have real rights.

1. THE POSITION OF LOCAL ADMINISTRATIONS IN THE SYSTEM OF PUBLIC ADMINISTRATION

The Structure of Public Administration and Administrative Divisions

All four states are unitary, with authorities divided between executive, legislative and judicial branches of government.

According to the four Constitutions, the government includes a president and two-chamber parliament. The government chairs and supervises the activities of the executive bodies. A sample governmental organization structure is outlined in Figure 1. The president is elected for a seven-year term through universal, equal and direct suffrage by secret ballot (Constitution of Kazakhstan, article 41; Constitution of Tajikistan, article 65; conclusions of the referendum in Uzbekistan).

The following supreme representative bodies perform legislative functions in these republics:

- Two-chamber parliament consisting of the Senate and *Majlis* in Kazakhstan;
- The *Zhogorku Kenesh* in Kyrgyzstan consists of two chambers;

- *Majlisi Oli* in Tajikistan, which consists of two chambers—*Majlisi Milli* and *Majlisi Namoyandagon*;
- The *Oliy Majlis* in Uzbekistan, which, on the basis of the national referendum outcomes, will consist of two chambers starting in 2005.

Each country has local governments, literally translated as “local governments” in Kazakhstan, “local public administrations” in Kyrgyzstan and “local public administration bodies” in Tajikistan and Uzbekistan.

Levels and Types of Administration and Basic Structural Divisions

As was already mentioned, all four countries divide public administration into *oblasts* (regions, provinces) and *rayons* (districts).

Local public administration consists of elected representatives and executive bodies (administrations). In Kyrgyzstan, representative power is not included in the system of public administration.

The structure of local administrations and the assignment of activities depend on the scale of local governments. The structure of small administrations is based on functional principles. Larger administrations have divisions that are responsible for certain spheres of

activities. Regional administrations are subdivided into different structural units such as directorates, divisions, agencies and departments.

All four countries, significant cities—usually the national capitals—have special status with specific administrative structures. There are two such cities in both Kazakhstan and Kyrgyzstan (Almaty and Astana; Bishkek and Osh, respectively), and the capital cities in the two other countries.

Uzbekistan also contains the Autonomous Republic of Karakalpakstan. The specific status of Karakalpakstan was established by the Constitutions of Uzbekistan and Karakalpakstan. According to article 70 of the Constitution of Uzbekistan, the Autonomous Republic of Karakalpakstan is an integral part of the Republic of Uzbekistan. According to the Constitution of Karakalpakstan, adopted on April 9, 1993, the *Zhokargy Kenes* is the supreme representative body exercising legislative functions in this republic. The exclusive authorities of the *Zhokargy Kenes* include the adoption of the Constitution of Karakalpakstan and other laws, as well as making changes and amendments to these laws.

Tajikistan contains the special-status Gorno-Badakhshan Autonomous *Oblast* (GBOA). According to article 81 of the Tajik Constitution, the Gorno-Badakhshan

Table 1—Major Indices and Administrative–Territorial Division of Central Asian Countries

| | Republic of Kazakhstan | Kyrgyz Republic | Republic of Tajikistan | Republic of Uzbekistan |
|-----------------------------------|--|---|---|--|
| Territory (km²) | 2.725 million | 199.9 thousand | 143 thousand | 448.9 thousand |
| Population | 14.953 million | 4.851 million | 6.127 million | 24.488 million |
| Territorial division | 14 <i>oblasts</i> + 2 territories with special status, 160 <i>rayons</i> , 84 cities | 7 <i>oblasts</i> + 2 territories with special status, 40 <i>rayons</i> , 22 cities and 465 rural municipalities | 2 <i>oblasts</i> + 2 territories with special status, 78 cities and <i>rayons</i> | 12 <i>oblasts</i> + 2 territories with special status, 233 townships and 164 rural settlements |

Table 2—Basic Principles of State Structure

| | Kazakhstan | Kyrgyzstan | Tajikistan | Uzbekistan |
|--|---|---|---|---|
| State structure | unitary | unitary | unitary | Unitary |
| Form of government | presidential | presidential | presidential | presidential |
| Parliament | two chamber | two chamber | two chamber | two chamber |
| Local administration | <i>oblasts</i> , <i>rayons</i> , townships and villages | <i>oblasts</i> and <i>rayons</i> | <i>oblasts</i> , <i>rayons</i> and cities | <i>oblasts</i> , <i>rayons</i> and cities |
| Local self-government bodies | | City hall, town council, <i>aiyl okmotu</i> | | |
| Territories with a special status | Astana (capital) and Almaty city | Bishkek (capital) and Osh city | Dushanbe (capital) and GBAO | Tashkent (capital) and the Republic of Karakalpakstan |

Autonomous *Oblast* is an integral part of the Republic of Tajikistan. Social, economic and cultural functions of the *oblast* are determined by the constitutional law of Tajikistan on Gorno-Badakhshan.

Status of Local Executive Authority

In all four republics, the president appoints and dismisses the *oblast* executive. However, in Kazakhstan *akims* (chief executives) of the executive bodies of Almaty and Astana are appointed by the president through the prime minister. In Tajikistan and Uzbekistan, heads of public administrations of *oblasts* are appointed and dismissed by the president, with approval by representative councils. In Kyrgyzstan, heads of public administrations of *oblasts* are appointed and dismissed by the president in consultation with the prime minister and approved by representative bodies.

In Kazakhstan, *akim* mandates are terminated when a new president assumes office, continuing until a new *akim* is appointed.

According to amendments to the Constitution of Kazakhstan enacted in 1998, *akims* of *oblasts* and the cities of Almaty and Astana are to be appointed by the president and approved by the prime minister. *Akims* of other administrative-territorial units are appointed or elected in accordance with procedures determined by the president. This was implemented experimentally in Kazakhstan in autumn 2001, with two *akims* for each rural district of every *oblast*. Until recently, all lower-level *akims* were appointed by *akims* of a higher level: *akims* of Almaty and Astana cities appointed *akims* of city districts; *oblast akims* appointed *rayon akims*; *akims* of the cities were appointed by *oblast akims*; *rayon akims* appointed *akims* of townships and villages.

In Uzbekistan, *hokims* (chief executives) of *rayons* and cities are appointed and dismissed by *hokims* of their respective *oblasts* and are approved by a representative council. *Hokims* of city districts are appointed and dismissed by the *hokims* of respective cities and approved by city councils. *Hokims* of the towns of *rayon* subordination are appointed and dismissed by the *rayon hokim* and approved by the *rayon* council.

Local public administrations in Kyrgyzstan are supervised on the principle of undivided authority by:

- the chief of *oblast* public administration—the *oblast* governor;
- the chief of *rayon* public administration—the *rayon akim*.

Both *oblast* governor and *rayon akim* are appointed and dismissed by the president with the consent of a respective local *kenesh* and after the consultation with the prime minister. The head of national public administration, as well as the governor, are appointed for 4-year terms (article 62 of the Law on Local Government and Local Public Administration). The organization of local public administrations in Tajikistan and Uzbekistan is similar—local power is concentrated in the heads of local public administration bodies.

Both representative and executive powers of respective administrative-territorial units are headed by *hokims*. While developing the structure of local power, some basic principles should be observed. One of the key principles of democracy is the right to local self-government. The second principle (especially important to the governments of Central Asian states) is the possibility for local governments to establish a system for the assessment and creation of balance in the national structure of legislative, executive and judicial powers.

Table 3 describes the status of chiefs of local executive power (in villages, cities and *oblasts*) in the four countries.

The hierarchic structure of executive power (See Figure 1) means, in essence, that higher-level bodies can always reconsider the decisions of lower levels—that higher-level governments effectively control the activities of lower-level bodies by making decisions regarding the allocation of resources to lower-level governments.

The empowerment of local governments prevents the concentration of power at the central level. The two principles mentioned above ensure that government and administration levels are not subordinate to each other but represent separate, autonomous organizations. At this stage of development, this is especially relevant to the *rayon/city* governments of the countries being discussed. Peculiarities of such two-tier local government are the following:

- Independent legal entities are established, the status of which are constitutionally guaranteed.
- Central governments may not easily change the number or border of its units.
- Governments are representative, directly elected by the residents or members of an administrative unit.
- Head of executive power are appointed by an elected body and accountable to it.
- Financial sources are independent.

Table 3—Status of the Chiefs of Local Public Executive Bodies (in villages, cities and oblasts) in the Four Countries.

| Country | Villages, townships | Rayons (cities of rayon subordinatoin) | Cities of oblast subordination | Oblasts, capitals and cities of oblast subordination |
|--|--|---|---|---|
| Kazakhstan (<i>Akims</i>) | Appointed or elected through procedures established by the president | Appointed or elected through procedures established by the president | Appointed or elected through procedures established by the president | Appointed by the head of state |
| Uzbekistan (<i>Hokims</i>) | — | Appointed by the higher-level <i>hokim</i> and approved by representative council | Appointed by the higher-level <i>hokim</i> and approved by representative council | Appointed by the head of state and approved by representative council |

| Country | Cities | Rayons | Oblasts and capitals (cities of republic subordination) |
|--|--|--|---|
| Kyrgyzstan (Governors and <i>Akims</i>) | — | Appointed by the head of state with the consent of local <i>kenesh</i> | <i>Oblast</i> -level heads are appointed by the head of state with the consent of a local <i>kenesh</i> ; otherwise elected by a city council |
| Tajikistan (Chairmen) | Appointed by the head of state and approved by the <i>Majlis</i> | Appointed by the head of state and approved by the <i>Majlis</i> | Appointed by the head of state and approved by <i>Majlis</i> |

Community Organizations

The **Republic of Kazakhstan** passed the Law on Community Associations on May 31, 1996. Community associations have the right to nominate candidates to *maslikhats* (local assemblies). Citizens are allowed to nominate themselves. During elections, community organizations, foreign states and international organizations are allowed to send one observer to polling stations.

Article 8 of the Constitution of the **Kyrgyz Republic** establishes, that “political parties, trade unions and other community associations may be set up in Kyrgyzstan on the basis of the expression of free will and community interests. The state ensures observance of the rights and legal interests of community associations.”

A community association can register as a political party, provided it has at least 500 members. However, community associations are not supported by an adequate legislative basis. Until the end of 1999, the concept of community associations was defined rather broadly—including political parties, trade unions, women’s, youth, veterans’ and creative unions, foundations and other associations of citizens.

Local *keneshes* (assemblies) in Kyrgyzstan closely cooperate with different community associations. On one hand, a local *kenesh* must find solutions to the issues of social and economic development of the region, *rayon*, city, township or village and to ensure the well-being of its residents. On the other hand, a local *kenesh* is an elected body and must express and coordinate the interests of different social groups and communities. Today, therefore, it is urgent that links are

established between local governments and community organizations.

Sessions of local *keneshes* are held openly, with representatives of labor collectives, community organizations, media and individual residents invited to participate. Chairmen of *keneshes*, standing commissions and groups of deputies can submit issues for the consideration of local *keneshes* as established by the regulations of each *kenesh*. Community organizations have the right to propose issues for consideration at such sessions.

Article 8 of the Constitution of **Tajikistan** guarantees the principle of political and ideological pluralism. According to this article, “community associations are established and operate within the Constitution and the law. The state ensures equal opportunities for their activities.”

Article 7 of the Constitution of **Uzbekistan** regulates the activity and rights of community associations. According to the Constitution, community associations include trade unions, political parties, academic societies, women’s organizations, veterans’ and youth organizations, creative unions and other associations of citizens registered according to legally established procedures.

According to legislation, the state guarantees the observance of the rights and legal interests of community organizations and creates equal legal opportunities for them to participate in social life. Interference by government bodies and officials in the activities of community associations, as well as interference by

Figure 1—Local Administration (Hierarchic Government Structure)

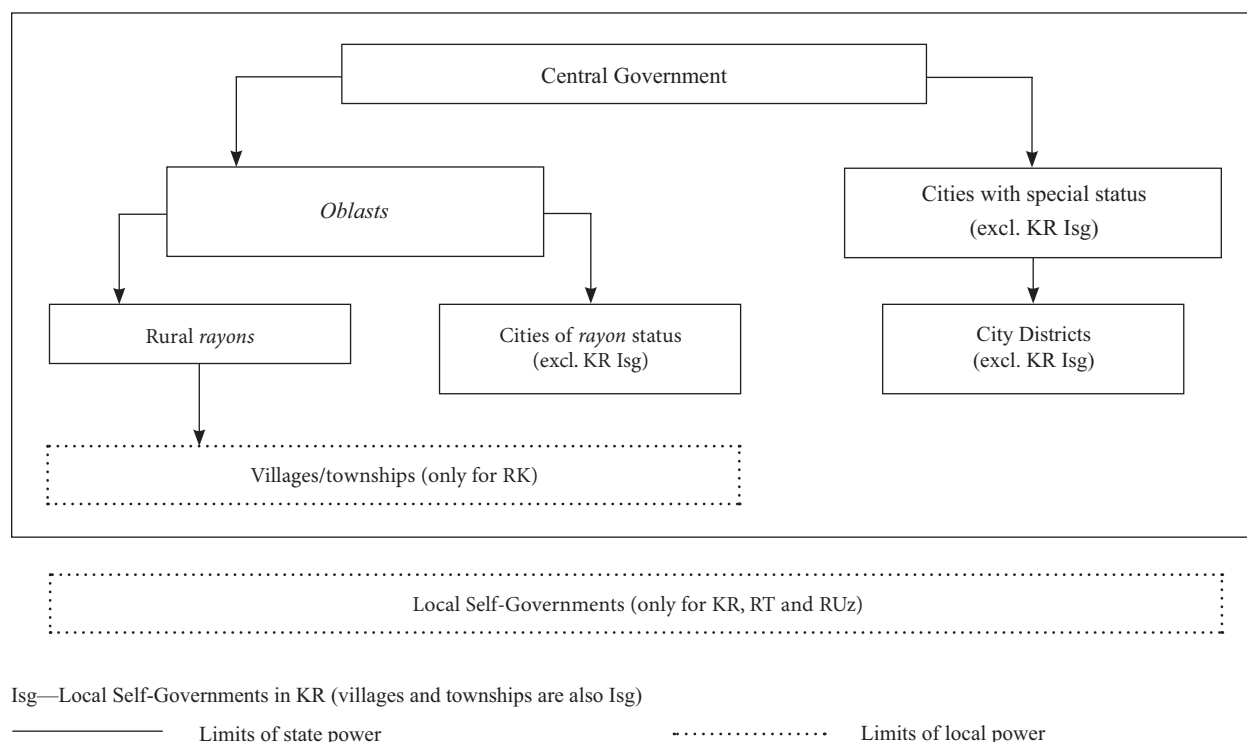
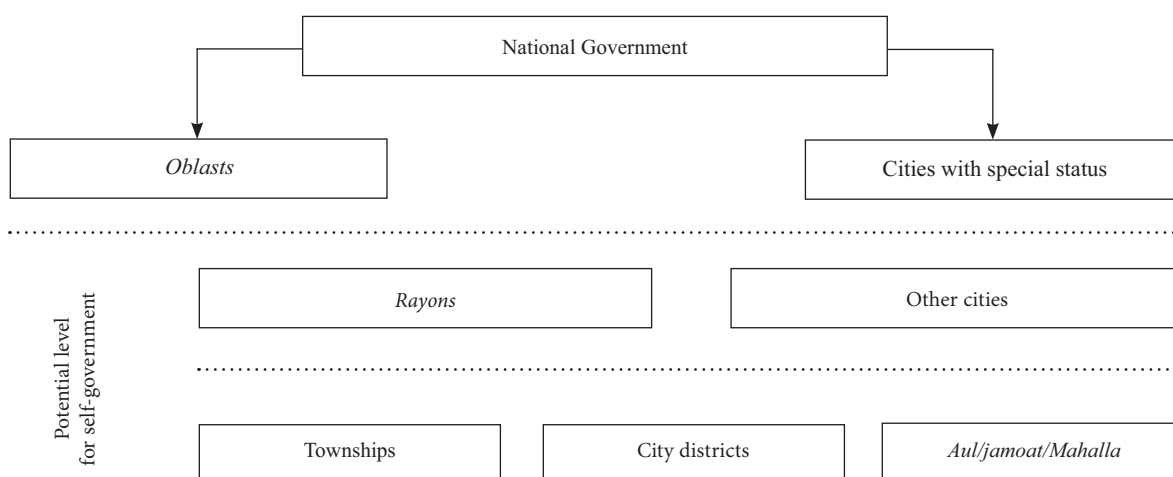


Figure 2—Local Governments (Autonomous Government Levels that Correspond to Democratic Principles)



community associations in the activities of government bodies and officials, is not permitted.

A special focus should be set on the growing role of nongovernmental and community organizations in the social life of the republic. Over the last five years alone, the number of community associations and NGOs grew

by more than 1.5 thousand; today there are upwards of 2.3 thousand.

The essence of the reforms in Uzbekistan (“from weak state to powerful civil society”) lies in the extension of local government and self-government functions, with a gradual delegation of some government authorities from

central governments, along with the extension of rights and roles of NGOs and community organizations for the better expression and protection of the professional and social interests of the population. This approach creates opportunities for broader participation in the administration and organization of citizens' lives.

Community Bodies

Self-government bodies in the countries of Central Asia are intended to satisfy the interests of local residents. Residents are united by virtue of their concentration in communities or settlements, or through administrative-territorial divisions which establish borders in which self-government activities are performed.

These community bodies are established on the initiative of residents who live within the territory and registered by the executive of *rayon* or city governments.

Establishing basic local self-government is a general trend across all the states of Central Asia. Only in Kazakhstan are community bodies yet to be established as local governments.

Relationships between Different Levels of Administration

Executive bodies in all four countries have a hierarchic vertical structure. *Oblast* governments, have power over *rayon* governments, while the latter have priority over city governments and local governments. In Kyrgyzstan, however, *rayon* executive bodies are subject to representative bodies, which are legally established as local governments.

Local governments perform their administrative functions in subordination to the higher levels of government. Most decisions regarding the provision of public services by *rayon* or *oblast* administrations are defined by a principle of linear subordination (ministry to chief directorate of the *oblast* to department in the region or city).

Relationships between different government levels are regulated by the Constitutions, laws on local administrations and other legal acts. Relationships between the central government bodies and local governments are regulated by the laws on self-government. It should be noted that local governments established in these countries during the transition period were closely linked with local administrations, operating practically as administrative units of the state bodies. Hence, two types of relationships should be defined: **internal**—between the different bodies of central government structure,

and **external**—between government bodies and local governments.

The social and economic development of an *oblast*, *rayon*, city, etc. is the priority of local representative bodies. Central governance of social and economic processes, as a rule, is performed in close cooperation with NGOs and local governments. These organizations (both commercial and non-profit) are the driving force for social and economic development and in many respects serve as intermediaries between the state and the citizens. Therefore, the content and quality of the legislative basis that regulates these relationships will determine the success of reforms being carried out, as well as the efficiency of public administration. Establishing a state governed by the rule of law requires a review of the principles of government as well as approaches to non-governmental structures, especially civil society.

Table 4 provides a comparative analysis of the authorities of representative bodies.

The Constitution of **Kazakhstan** regulates the mechanisms for coordination and interdependence of *akim* and *maslikhat*. Article 87, item 5 establishes that the “*maslikhat* has the right to a vote of no-confidence for an *akim* by 2/3 majority, leading to a recommendation for his dismissal from office.” A *maslikhat* can consider a vote of no-confidence to an *akim* on the grounds of repeated disapproval by a *maslikhat* of the reports presented by an *akim* on the implementation of plans, programs for social and economic development of the territory, or of the local budget.

Article 88 of the Constitution determines that draft decisions of a *maslikhat* on reduction of local budget incomes or an increase of local budget expenses can be submitted for consideration only under approval of an *akim*. The Law on Local Public Administration establishes the following mechanisms:

Plans, programs for social and economic development of an *oblast* (and Almaty and Astana cities), respective *oblast* budgets and budgets of Almaty and Astana cities, as well as reports on their execution are developed by the *oblast* (or city of republican subordination) *akimats* and submitted for review by *maslikhat*. The *maslikhat* approves these plans, programs, local budgets, reports on their execution as well as the structure of government of the administrative-territorial unit. The *maslikhat* exercises control over implementation of plans, programs for social and economic development, and budgets of their respective territories.

Maslikhat members may make enquiries and send appeals to local executive bodies and organizations

Table 4—A comparative analysis of the authorities of representative bodies

| Activities | Authorities of Representative Power | | | |
|---|-------------------------------------|---------------------------------|---------------------------------|---------------------------------|
| | Kazakhstan | Kyrgyzstan | Tajikistan | Uzbekistan |
| Budget and reports on its execution | approval | approval and control | approval | approval |
| Territorial development program | approval and control | approval and control | approval | approval |
| Local tax amount | establishment | establishment | establishment | establishment |
| Head of executive power and his deputies (<i>oblasts</i>) | | coordination | approval | approval |
| Decisions of the head of executive power | | cancellation is against the law | cancellation is against the law | cancellation is against the law |
| Vote of no-confidence on the head of executive power | by 2/3 majority | by 2/3 majority | | |
| Reports of structural divisions of executive power | makes proposals and receives | receives | receives | receives |

located on the territory of the respective *maslikhat* on the issues within the *maslikhat's* authorities; they may hear the reports of officials of local executive bodies and organizations located on the *maslikhat's* territory on issues within the *maslikhat's* jurisdiction; they may participate in the meeting of a respective *akimat*. *Akimat* officials of the territorial divisions of the central executive bodies financed from the local budgets and organizations should, according to established procedures, provide necessary information to the standing commissions of the *maslikhat* on issues within their jurisdiction.

The *akimat's* staff shall be coordinated by decision of a session of the *oblast* (or city of republican subordination) *maslikhat*.

Maslikhats review reports from heads of executive bodies and can enter proposals to the respective bodies to call officials from state government bodies and organizations to account for failure to fulfill *maslikhat* decisions.

The *akimat* develops, submits to a respective *maslikhat*, and after approval, implements employment and poverty control programs. The *akim* submits the staff list of counseling and advisory bodies on interdepartmental issues established by *akimat* to the *maslikhat* for approval.

The *akimat* of an *oblast* (or city of republican subordination) is accountable for the implementation of its functions to the *oblast* (or city of republican subordination) *maslikhat* (article 27, item 3). A *rayon* (or city of *oblast* subordination) *akimat* is accountable to

the *rayon* (or city of *oblast* subordination) *maslikhat* (article 31, item 3).

In **Kyrgyzstan**, the representative body is called a *kenesh*. It may carry out a vote of no-confidence by a 2/3 majority of all members concerning the head of local public administration, the mayor of Bishkek and of cities of *oblast* subordination, the mayor of a city of *rayon* subordination and the head of local government or township.

According to article 13 of the Law on Local Government and Local Public Administration, local governments operate in close coordination with local public administrations and create conditions for residents to enjoy their constitutional right to participate in the administration of state and social affairs.

Relationships between *oblast*, *rayon* and city *keneshes* and local public administration are based on the principle of differentiation of functions, while *keneshes* and local public administrations have specific, legally established authorities.

Local public administrations do not have the right to interfere in affairs under the jurisdiction of local *keneshes*.

Local *keneshes* do not have the right to interfere in affairs under the jurisdiction of local public administrations.

A local *kenesh* may invite the representatives of respective ministries, state committees, administrative institutions and bodies of local public administrations to participate in the sessions that concern affairs of territorial interest.

Local public administrations coordinate their decisions on important territorial development issues with local *keneshes* through ongoing consultations.

In **Tajikistan**, as well, an important aspect of reform is the improvement of relationships between different levels of representative power. The competencies of various authorities and their legal basis must be more clearly defined, along with contractual relations between administrative bodies of different regions, the allotment of material and financial resources for the implementation of joint activity, as well as coordination between different spheres of government. The relationships between representative bodies, executive bodies and local government must also be analyzed in order to determine where to make improvements.

In order to harmonize the relationships between public administration, local government, property owners, legal entities and other structures in transition, Tajikistan must solve acute problems surrounding the parameters of contractual relations between *majlises* and heads of local executive power with commercial structures, economic and business entities.

The role of local government is as important for the development of constitutional law (self-limiting power), as the activities of local public administrations. Tajikistan's current Constitution sees local government as a way to limit the mandates of state authorities in the interest of public peace.

Local public administration in **Uzbekistan** functions through local representative and executive bodies. Councils and *hokimiyats* headed by *hokims* are legally responsible for the social and economic development of respective territories, enforcing the rule of law, acts of the *Oliy Majlis* (parliament), local government and the president.

Local representative bodies do not have close relationships with the with the *Oliy Majlis*. They are not subordinate to higher levels—city and *rayon* councils are not subordinated to an *oblast* council, for example. The representative structure involves open sessions and standing or interim commissions which can organize public hearings. Executive power is based on the principle of undivided authority. Within their jurisdiction, councils and *hokimiyats* are independent.

Hokims and councils must also improve the process of implementing territorial development programs. Council should not mechanically approve the submitted proposals; they must be actively involved in preparation activities. Councils often include specialists in various fields, while *hokim* often possess scientific and practical

capacities which must be utilized. The *hokim* himself should expand administration from the solution of everyday issues to developing strategies on the basis of economic trends and prognoses for development.

Relationships between governmental and non-governmental bodies must also be improved. Most NGOs are oriented towards the solution of local tasks, cooperate poorly with government bodies and lack experience with legislative initiatives both at the local and national levels.

In Uzbekistan, relationships between public administration and local governments must also be improved. According to the Law on Local Government, public administration bodies are intended to create the necessary conditions for the establishment and development of independent local government, local governments still rely heavily on local public administrations. First, local government heads are coordinated with the *hokims* of respective territories; second, local government employees receive their salary through *hokimiyats*.

Article 7 of the above law establishes that local governments are not included in the system of public administration, possess the rights of legal entity and are subject to registration by local public administrations.

2. Legal and Constitutional Basis of Local Administration

The Constitution

The legal effort to redistribute power and strengthen local government authorities has resulted in changes to national Constitutions.

The Constitutions of all four republics recognize the role of local government. As established by the new Constitutions, local executive bodies have a central position in the structure of public administration.

The Constitution of **Kazakhstan**, adopted on August 30, 1995, established the key principles and directions of reform for the system of public administration. Local public administrations include: local representative bodies—*oblast*, *rayon* and city *maslikhats*—and local executive bodies—*oblast*, *rayon* and city *akimats* and rural *akims*.

Maslikhats (local representative bodies) express the will of residents of administrative-territorial units and, taking national interests into account, determine measures for its implementation and control. The members of these bodies are elected for four-year terms through universal, equal, direct suffrage by secret ballot.

The number of members of a *maslikhat* is determined by the Central Election Commission of Kazakhstan under the following limits: *oblast maslikhats* and *maslikhats* of the cities of Almaty and Astana may have up to 50 members; city *maslikhats*, up to 30 members; *rayon maslikhats*, up to 25 members.

Local executive bodies are included in the uniform system of executive bodies and ensure implementation of the national executive policy in correlation with the interests and development needs of a respective territory. Local executive bodies are headed by the *akim* of the respective administrative–territorial unit; the *akim* serves as the representative of the president and the national government.

The Constitution also recognizes that “local government ensures the independent solution of issues of local importance by local residents.” Participation is exercised through local elections. Procedures for the organization and activity of local government are determined by the citizens themselves within legally established limits.

The closing provisions of the Constitution envisage that current legislation should be adjusted in coordination with the Constitution within two years. Under these precepts, the Law on Local Public Administration and the Law on Local Government were adopted. Drafts of these laws were discussed in parliament for five years. As a result, the national legislation now contains a certain legal gap in the regulation of issues of local public administration and local government. In January 2001, the Law on Local Public Administration was adopted. A draft of the Law on Local Government was withdrawn from parliament by the government and has not yet been adopted.

The Constitution of **Kyrgyzstan** outlines the conditions of local government in Chapter 7, article 5, which establishes executive power and regulates the activity of local public administration. It states that executive power in *oblasts*, *rayons* and cities is exercised by local public administrations. Decisions by local public administration are binding within its territory (Article 77).

Local government in Kyrgyzstan is exercised by local communities that administer local affairs within the law.

Local government is exercised through local *keneshes* and other bodies established by the residents themselves under the legally determined procedures.

The basis for the organization and activity of local governments and their relations with public administration bodies are legally established and regulated.

Local governments may take on specific government authorities with the transfer to them of all necessary ma-

terial, financial and other resources. Local governments are accountable for their delegated authorities to public administration bodies (Articles 92–94). Communal property was constitutionally secured through a constitutional amendment on February 10, 1996.

Article 95 of the Constitution of Kyrgyzstan determines the authorities of local *keneshes*, such as approval and control of programs for social and economic development, social security for residents, approval of local budgets and reports and receiving information about the use of off-budget funds. Local *keneshes* of *rayons*, cities and *oblasts* may express a vote of no-confidence to the head of local public administration by a 2/3 majority. They act independently of local public administration and, within their authorities, adopt acts binding on their territory.

Article 6 of the Constitution of **Tajikistan** regulates issues of local government, outlining constitutional norms for the differentiation of power at the local government level and describing the functions of local government. The Constitution of Tajikistan stipulates that local power consists of representative and executive bodies act within their jurisdictions to ensure compliance with the Constitution, laws and acts of the *Majlisi Oli* and the president (Article 76).

Majlises are the body of local representative power in *oblasts* and *rayons*. It is headed by the chairman, who is simultaneously the president’s representative in the region and chairman of the *rayon*. He is appointed and dismissed by the president, who presents nominees to chairmen for approval by respective *majlises*. The chairman is accountable to the higher level executive body and the respective *majlis*.

According to the Constitution, local *majlises* approve local budgets and report on implementation, determine areas for local social and economic development, taxes and other legally established payments, methods of administration and ownership of communal property and perform other authorities described in the Constitution and laws (Article 77).

As was already mentioned, local executive power is vested in a representative of the president, i.e., chairman of *oblast*, city or *rayon*. The order of organization, authorities and activities of local public administrations are regulated by the Constitutional Law on Local Public Administration.

The Constitution determines that a *jamoat* is the local government body in townships and villages. This issue is regulated by the Law on Local Government in Townships and Villages.

According to article 99 of the Constitution of **Uzbekistan**, councils of deputies are representative governments in *oblasts*, *rayons* and cities (excluding cities of *rayon* subordination and city districts). They are headed by *hokims*.

The authorities of *oblast*, *rayon* and city *hokims* are established by article 101, and these *hokims* bear personal responsibility for the decisions and actions of the bodies they chair.

According to article 100, the jurisdiction of local governments includes:

- maintain law and order;
- address issues of economic, social and cultural development within the territory;
- propose and implement the local budget, establish local taxes and dues, administer non-fiscal assets;
- administer local public services;
- protect the local environment;
- register civil act;
- adopt legal acts;
- other activities that do not contradict the Constitution or the laws of Uzbekistan.

Local governments implement laws, presidential decrees, decisions of higher level governments, supervise the activities of lower-level councils and participate in discussion of issues of national and local importance.

Decisions by higher level governments adopted within their jurisdiction are binding for lower level governments. Representative and executive power on a respective territory is headed by *oblast*, *rayon* or city *hokim*. The term in office of the councils and *hokims* is five years.

The Constitution of Uzbekistan also recognizes local government (in article 105). Local governments in townships, *kishlaks*, *auls* (rural districts) and in *mahallas* (urban districts) of cities, townships, *kishlaks* and *auls* exist in the form of citizens' assemblies that elect the council chairman (*aqsaqal*) and his councilors for the term of 2.5 years. Election procedures, organization of activities and authorities of local governments are regulated by law.

Laws on Local Government

As was specified above, all four countries adopted laws that describe the essence of local public administration

activities and establish the key requirements and duties of local governments.

- **The Law on Local Public Administration**, in effect in Kazakhstan since January 2001. A separate law on self-government has not yet been adopted.
- **The Law on Local Self-governments and Local Public Administration**, in effect in the Kyrgyz Republic since December 2001.
- **The Law on Local Public Administration**, in effect in the Republic of Tajikistan since December 1994;
- **The Law on Local Public Administration Bodies**, in effect in Uzbekistan since September 1993.

These laws describe in detail the authorities of local representative bodies, the status and jurisdiction of the heads of local executive bodies and determine relationships between local representative and executive powers.

In **Kyrgyzstan**, the Law on Local Government and Local Public Administration establishes the principles of organization for local governments, determines the role of local governments and local public administrations in the implementation of public power, specifies the organizational and legal basis for their activities, outlines competencies and relationships between local governments and local public administrations, and guarantees the right of local communities to self-government.

Although a specific law on local governments has not yet been adopted in **Kazakhstan**, the Law on Local Public Administration states that "local self-governed communities can establish inter-local associations under the determined procedures to coordinate their activities and more efficiently participate in regional policy. At the same time, the possibility to delegate authorities from local governments to such associations is excluded." There are special laws on local governments in Tajikistan and Uzbekistan.

Other Legislation Regulating the Activities of Local Administrations

It should be noted that the principles of control over the activities of governments at different levels are detailed in: (a) the constitutions of all four countries; (b) laws on local public administrations and local governments; (c) ministerial decrees on the activities of local administrations within their constitutional jurisdiction and corresponding legal acts; (d) parliamentary decrees on

compliance with the laws; (e) the public prosecutor's precise descriptions concerning adherence to legal acts.

Presidential control in **Kazakhstan** is performed directly by the president or through his administration (by *oblast* inspectors). The president appoints *akims* of *oblasts* and the city of Almaty. *Akims* are fully accountable to the president, as they head local executive body; the *akim* must implement the president's assignments and report to the president as well.

Parliamentary control over the activities of local government is not envisioned in the legislation. The senate has the right to terminate the authorities of a *maslikhat* on the suggestion of the attorney general.

The government, within its jurisdiction, controls adherence to the law. The ministry of justice and its territorial departments register acts of local governments. Central branch institutions and other bodies exercise branch control over subordinate divisions of local executive bodies.

Maslikhats are not bound by vertical subordination relationships. Lack of vertical subordination does not mean complete detachment, as *oblasts* consist of *rayons* and cities, and *rayons*, of *auls* (rural districts). However, a higher level *maslikhat* may not interfere in the authority of a lower level body. Even if the latter makes an illegal decision, it is not cancelled vertically. The legislation describes cancellation of acts of local representative bodies only through judicial procedures.

The office of the public prosecutor enforces uniform adherence to laws, presidential decrees and other legal acts and regulations. This control is exercised through inspections ordered by the president on the basis of applications, complaints, information or other data on the violation of legislation. Control over the activities of local governments is not systematic; often such control is exercised by several institutions simultaneously.

The Constitution of **Kyrgyzstan** establishes that "public administration in Kyrgyzstan is based on the principles of ...the differentiation of public power into legislative, executive and judicial branches, their concerted functioning and cooperation, the responsibility of government bodies before people and the performance of their authorities in the interests of people; of the differentiation of functions of public administration and local governments."

The prime minister, in accordance with the Constitution, laws and decrees of the president determines the key areas of government activity, organizes its work and is personally responsible for its operations.

The Constitution also determines that the president of Kyrgyzstan should exercise control over government activities.

It is stipulated in the Constitution that local *keneshes* and other local governments are responsible before the state for adherence to and compliance with legislation, and before local communities for the results of their activities. The Law on the Status of the Members of Local *Keneshes* is another source of legitimacy for local governments; it provides local *kenesh* members with the right to enter proposals at a plenary session of the local *kenesh*, containing reports or information from any office or official accountable to, or controlled by the local *kenesh*, or of any issues within the competence of a respective local *kenesh*, of other bodies and officials acting on its territory.

According to the Law on Local Government and Local Public Administration, central government bodies exercise control over the legitimacy of activities of local governments under legally established procedures.

As regards local government, the same law grants the following authorities to central government bodies:

- the adoption of laws on local government and the control of their observance;
- the provision of local governments with respective public authorities and the delegation of some public authorities to them in accordance with legal acts and regulations;
- the transfer of material and financial resources to local governments;
- the control over implementation of delegated authorities and use of resources.

The status of local administrations in **Tajikistan and Uzbekistan** is similar. In both countries the heads of local administrations are simultaneously chairmen of local representative power and local executive power.

In both countries, the heads of local administrations are appointed and dismissed by the president, who nominates them for the approval by respective councils. Heads of local administrations are accountable to a higher level executive body.

The Constitution of Uzbekistan grants *oblast*, *rayon* and city *hokims* the right to exercise their authorities on the principle of undivided authority.

In his turn, the *oblast*, *rayon* and city *hokim* controls the activities of executive power bodies, the heads of which are appointed and dismissed by a respective council of people's deputies.

3. Legal Basis of the Electoral Systems

The electoral system in **Kazakhstan** was established by the Law on Elections. According to the law, the president and members of the *majilis* and *maslikhats* are elected through universal, equal and direct suffrage by secret ballot. Members of the senate are elected through indirect suffrage by secret ballot of electors—members of respective *maslikhats*.

The *majilis* consists of 77 members. 67 are elected by single-member constituencies reflecting the administrative-territorial divisions of the country, with an approximately equal number of voters. Ten members are elected on the basis of party lists, by a system of proportional representation on the territory of a single national constituency.

Elections to *maslikhats* are run only by single-member constituencies. Party lists are not used. Electoral legislation also has created norms for the election of local officials. Citizens, who are 18 years of age and capable can be elected to local governments. Any eligible voter residing in a community has the right to nominate a candidate. Self-nomination is also allowed. Candidates are elected by simple majority. However, as local government has not been properly established, these norms have not been implemented.

Maslikhat elections are funded from the national budget. Campaign funding by international organizations, foreign government bodies, foreign legal entities and foreign citizens is prohibited. The management of polling stations is the responsibility of electoral commissions established by the community, city or *rayon*.

The Electoral Code of **Kyrgyzstan** was adopted in 1999. The law rationalized the electoral system, establishing the election of two candidates from each community to local *keneshes*. Gaps in legislation were addressed by the Law on Changes to the Electoral Code, adopted by the *Zhogorky Kenesh* on October 11, 2001. The draft of this law was based on analysis of pilot elections.

The code establishes that any citizen between 25 and 65 years of age with a degree beyond secondary school are eligible for election to local government. Terms are established by the president at least 60 days prior to elections.

Almost immediately after this law was adopted, the president signed a Decree on Elections of Heads of Local Government—*Aiyyls*, Townships and Cities of *Rayon* Subordination. This decree, which went into effect October 14, 2001, established the continuation of

pilot elections. Local government elections were held on December 16, 2001.

Candidates can be nominated (a) by voters at their place of employment or study; (b) at meetings of political parties; (c) or submission of a self-nomination application to a district electoral commission.

The Republic of **Tajikistan** is presently developing a draft law for the improvement of local elections, the enlargement of local governments' authorities and the strengthening of their financial basis.

The Constitutional Law on Local *Majlis* Elections determines that *oblast majlises*, and the *majlis* of the city of Dushanbe contain no more than 70 electoral districts, while *rayon* and city *majlises* contain no more than 40 districts. Each constituency elects one candidate to the respective *majlis*.

Candidates are nominated by political parties or individually through self-nomination.

The government of Tajikistan is currently working to strengthen the basis for local government activities through construction of new facilities and transferring ownership of existing facilities.

In **Uzbekistan**, local representative bodies are elected to 5-year terms by universal, equal, direct suffrage by secret ballot. In addition to the *Oliy Majlis*—the central legislative body—other bodies include the *Zhogorky Kenges* of Karakalpakstan and oblast and *rayon* councils.

Citizens of at least 18 years of age may vote in the multi-party elections. Citizens over 25 may run for office. Citizens may not serve in two representative bodies simultaneously.

Each *oblast* as well as the city of Tashkent is divided into no more than 60 electoral districts. *Rayons* and other cities are divided into no more than 30 districts. Each district elects one candidate to respective councils.

The chairman (*aqsqaal*) of the citizens' assemblies and councilors to the chairman are elected by simple majority for 2.5-year terms. The chairman of the citizens' assembly is elected in coordination with the *hokim* of a *rayon* or city; councilors, on the recommendation of the chairman.

4. Compliance with the European Charter on Local Self-Government

Article 3 of the European Charter on Local Self-Government (henceforth, 'the charter') defines local government as follows:

- 1) Local government denotes the right and the ability of local authorities, within the limits of the law, to regulate and manage a substantial share of public affairs under their own responsibility and in the interests of the local population.
- 2) This right shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and which may possess executive organs responsible to them. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by law.”

Article 2 of the charter establishes that “the principle of local government should be recognized in the national legislation and, where practicable, in the constitution of the country.”

The constitutions of all four republics recognize and guarantee the existence of local government. The Constitution of **Kazakhstan** recognizes the possibility to establish local government, but, as has been mentioned, the law regulating local government activities has not yet been adopted.

Some laws of these republics contain definitions of the term “local government.”

In **Kyrgyzstan**, the Law on Local Self-government and Local Public Administration defines local self-governments as “representative, executive, administrative and other bodies formed by residents themselves to address issues of local importance under their own responsibility.”

In **Tajikistan**, the Law on Local Government defines local government as “a system for the organization of residents’ activities for independent and responsible solution of local issues directly or through bodies elected directly or through elected representatives.”

In **Uzbekistan**, the Law on Local Government states that “Local self-government is an independent activity of the citizens, guaranteed by the Constitution and legislation of Uzbekistan, for the solution of issues of local importance based on their interests, historic developments and national and spiritual values, local customs and traditions.”

The four constitutions add to these definitions:

The Constitution of **Kazakhstan** states that “local self-government is exercised directly by residents through elections and through elected and other local government bodies in rural and urban communities.

The organizational and operational procedures of these bodies are determined by the residents themselves within legally established limits...”

The Constitution of **Kyrgyzstan** states that “the people of Kyrgyzstan exercise power directly and through the system of public administration on the basis of the Constitution and legislation of the Kyrgyz Republic...The citizens of Kyrgyzstan elect the president, members of the Legislative Assembly and Assembly of Representatives of the *Zhogorku Kenesh*, and local government representatives.”

Article 6 of the Constitution of **Tajikistan** states that “the people of Tajikistan are the medium of sovereignty and the only source of public administration, exercised directly and through representatives.”

The Constitution of **Uzbekistan** states that “the citizens of Uzbekistan have the right to participate in the administration of public and state affairs both directly and through representatives. This participation is exercised through self-government, referenda and the democratic formation of government bodies.”

These provisions provide the grounds for comparison with concepts of local government compared in the charter:

- 1) The principles of local self-government are recognized by the Constitutions of these countries.
- 2) The Constitutions and legislation of Kazakhstan, Kyrgyzstan and Uzbekistan recognize and guarantee the right of citizens to local self-government.
- 3) According to the Constitutions and other laws of these countries, citizens exercises local self-government through a direct expression of will and through local government bodies, while the existence of elected bodies is obligatory.
- 4) Local governments, and in some cases citizens themselves, have the right to independently, under their own responsibility and in the interests of local residents, address issues within their competence.

The Constitutions and legislation of these countries take into account the basic and essential indices of the term “local self-government” contained in the European charter. The differences are as follows:

- 1) The charter emphasizes the exercise of power through government bodies formed by citizens, while not excluding direct democratic action. The legislation analyzed places the emphasis on the citizens themselves, with government bodies serving as an expression of citizens’ will.

- 2) The charter establishes that councils or assemblies may create subordinate executive bodies. The councils in the countries of Central Asia, excluding Kyrgyzstan (at the lowest level of government), possess no such subordinate executive bodies.
- 3) The definition of local self-government in the charter describes the rights and real capacities of local government bodies to regulate and manage a substantial share of public affairs, while the Constitutions and legislation of the analyzed countries determines that the competence of local governments is to address “issues of local importance.”

Meanwhile, we must consider that legislation does not fully describe the conditions and performance of local self-government. Conditions, current practice and funding must also be considered.

Article 9, item 1 of the charter establishes that “local authorities shall be entitled, within national economic policy, to adequate financial resources of their own, of which they may dispose freely within the framework of their powers.”

For these countries, it is important to achieve a situation where at least part of local government funding comes from local taxes and dues, the rates of which local governments establish themselves within legally determined limits.

5. Problems, Development Areas and Next Steps

The main factors influencing the existing status of local administrations are the course of the reform of public administration as a whole. *Akims* in Kazakhstan and *hokims* in Uzbekistan and Tajikistan are part of the central administration, despite the aim of reforms to decentralize the state and strengthen civil society.

It should be noted that all countries are at different stages of the development of local governments. While Kazakhstan is presently considering the issue of the creation and development of local government, the Kyrgyz Republic has advanced further with practical steps towards decentralization and strengthening the role and independence of local governments. Common factors affecting the development of democratic local authorities include:

1. *Undivided local executive and representative power, i.e., the administration of both branches by one manager (Tajikistan and Uzbekistan)*

At the stage of transition from a centralized system, it is important to have a strong position at the regional level, representing public authority and responsible for the provision of public services in the region. Nevertheless, the provision stipulating that the head of and executive authority simultaneously controls both local representative and executive branches is not in accord with the principle of differentiation of powers; it creates an unjustified concentration of power and too broad an authority. The role is also ambiguous, with at least two definitions—to run council sessions and represent the council at meetings with the public (while allowing other political leaders to supervise council activities).

The post is assigned by council members on a non-political basis. This position is mostly ceremonial, but it allows the council to have some influence and contact with the population. The real political authority is vested in the leader of the ruling majority party, who is expected to promote and support the reform program. If one person holds both these positions, there is a danger that the opinion of the council minority would not be sufficiently taken into account and that council leadership would be kept out of political decision-making. The existence of two separate positions might lead to conflicts, even if the council chairman performs purely ceremonial functions. This issue needs to be resolved legally.

2. *Insufficient local representative authority*

Undivided power at the local level hinders the development of representative bodies as independent branches of political power.

3. *Executive authorities are appointed at almost all levels*

All executive authorities in Tajikistan and Uzbekistan are appointed by higher-level bodies or the president. This is also true in Kazakhstan, pilot elections of rural *akims* in two *rayons* of each *oblast*, or in 28 rural districts were implemented in 2001.

Electors were determined by open ballot in rural districts; they then elected *akims* by secret ballot. This procedure has been criticized heavily by local experts as well as the OSCE (Panorama 2001) as a violation of the right to universal suffrage. According to local experts,

indirect elections in *auls* and townships with a small number of voters are especially unacceptable.

However, neither appointed nor elected *akims* have any authority. Rural *akims* are elected for 2-year terms, but without the restoration of rural budgets it is impossible for *akims* to address any rural issues.

In Kyrgyzstan, pilot elections were held for the chairmen of 11 *aiyl okmotu* and mayors of 9 cities of *rayon* and *oblast* subordination, including the mayor of Bishkek. In the beginning of November 2001, elections were held for the head of the *aiyl okmotu* at the national level. *Rayon*, city and *oblast* elections are currently being organized.

4. *Unclear differentiation of functions between different government levels*

The priority for Central Asian states presently is to establish a balance between different levels of government and between representative, executive and judicial authorities. This requires the decentralization of decision-making power with simultaneous improvement, simplification and strengthening of local government structures. It also requires the differentiation of functions between public administration levels and allocation of financial resources in accordance with these functions.

5. *Decentralization of public administration functions to local governments without provision of adequate funds*

Before local governments can take on more responsibilities, they must be provided with new sources of funding, such as a share of local taxes collected by them. The creation of the financial and economic basis for local government is a long-term priority. There can be no true independence of local government without financial and material resources.

6. *Lack of government accountability to local populations*

The strengthening of local governments must coincide with an increase in the openness and transparency of their activities, thereby strengthening the accountability of the elected bodies to voters. Local government must be supported by the initiative of the electorate. Contact between local government and the local population must be consolidated in order to ensure the irreversibility of the process.

A greater local government role in managing social life on their territory also becomes important. *Mahallas*—local government bodies in Uzbekistan—for example, form a unique component of the social life of the country. They enjoy great public confidence and are thereby able to establish unwritten codes of behavior based on honor. This allows *Mahalla* authorities to terminate illegal activity without recourse to the police—as quickly and efficiently as possible.

7. *Problems in the development of the legal basis of local administration and local government*

The complexity of a comprehensive transformation of public administration in transition countries impedes the development of strategies for further growth of local administration and self-government.

8. *Lack of qualified staff*

The training of employees for both local administrations and local governments is a priority in all four countries. Resolving this problem not only requires the participation of government agencies; it must involve training supported by NGOs and international organizations.

The creation of civil society, including the development of a proper system of legally-protected private ownership and competent local government, is a long process. The direction of overall development must be defined first. If civil movements continue to grow, society as a whole has a potential for further democratization. The goal being to create a system of government that is responsible to its electorate and attends to the will of civil society. A well-developed civil society makes it possible for citizens to restrain and limit state authorities. This understanding may promote human development through an efficient partnership between the state and strong democratic institutions.

References

Munteanu, Igor and Victor Popa, eds. *Developing New Rules in the Old Environment—Local Governments in Eastern Europe, the Caucasus and Central Asia, Volume III*. Budapest: OSI–LGI, 2001.

National Report: Legal Status, Functions and Competence of Local Self-government in Kazakhstan.

National Report: Legal Status, Functions and Competence of Local Self-government in Kyrgyzstan.

National Report: Legal Status, Functions and Competence of Local Self-government in Tajikistan.

National Report: Legal Status, Functions and Competence of Local Self-government in Uzbekistan.

Panorama, ed. “Election Procedure of Local *Akims* Criticized by OSCE and Local Experts.” *Panorama* 40. October 19, 2001: 1.

Relevant Legal Documents

Kazakhstan

The Constitution, 1995

The Law on Administrative–Territorial Division, December 8, 1993; amended December 19, 1995.

The Constitutional Law on Elections, September 28, 1995; amended June 19, 1997, May 8, 1998, November 6, 1998, May 6, 1999, June 28, 1999.

The Constitutional Law on Parliament and Status of its Members, October 16, 1995

The Law on Community Associations, May 31, 1996.

The Law on Budget System, April 1, 1999.

The Law of Kazakhstan on Civil Service, July 23, 1999.

The Law on the Status of Capital City, May 20, 1998.

The Law on Special Status of Almaty, July 1, 1998.

The Law on No-profit Organizations, January 16, 2001.

The Decree of the President on Elections of *Akims* of Aul (rural) Districts, *Auls* (villages) and Townships, July 23, 2001.

Kyrgyzstan

The Constitution, 1993.

The Law on Local *Keneshes*, 1999.

The Law on Referenda, June 28, 1991.

The Law on the Status of Capital City, April 16, 1994.

The Law on the Associations of Housing Owners, October 28, 1997.

The Law on the Basic Principles of the Budget, June 11, 1998.

The Law on Political Parties, June 12, 1999.

The Law on the Status of Local *Kenesh* Members, January 13, 2000.

Tajikistan

The Constitution, 1994.

The Constitutional Law on *Majlisi Oli*, May 4, 2000.

The Constitutional Law on Government, November 2, 1995.

The Law on Civil Service, May 20, 1998.

The Constitutional Law on Elections to Local *Majlises*, December 10, 1999.

The Constitutional Law on the Status of the Gorno-Badkshan Autonomous *Oblast*, November 2, 1996.

The Constitutional Law on the Status of Capital City, November 12, 1998.

Uzbekistan

The Constitution, 1992.

The Law on Local Self-government, 1999.

The Constitutional Law on the Results of Referenda and Basic Principles of Organization of Public Administration, 2002.

The Law on the Status of People’s Deputies, 1995.

The Law on the Cabinet of Ministers, May 6, 1993.

The Law on Property, May 7, 1993.

The Law on Local Taxes and Dues, May 7, 1993.

The Civil Code, March 1, 1997.

The Law on Election of the President with changes and amendments December 29, 1997 and August 19, 1999.

The Law on Election to *Oliy Majlis* with changes and amendments entered by the Law on Elections to *Oblast*, City and *Rayon* Councils, December 29, 1997; amended August 19, 1999

The Law of Karakalpakstan on the Cabinet of Ministers of Karakalpakstan, January 29, 1998

For more information concerning FDI–CEE programs please contact:

Program Secretariat

Open Society Institute

Local Government and Public Service Reform Initiative (Budapest, Hungary)

Mr. Ondrej Simek

Tel: (+36-1) 327-3862/ext. 2402

Fax: (+36-1) 327-3105

E-mail: osimek@osi.hu

Contact Points at Partner Organizations

Council of Europe (Strasbourg, France)

Mr. Alessandro Mancini

Tel: (+33-3) 8841-2265

Fax: (+33-3) 8841-2784

E-mail: alessandro.mancini@coe.fr

Organisation for Co-operation and Development (Paris, France)

Mr. Leif Jensen

Tel: (+33-1) 4524-9490

Fax: (+33-1) 4524-1884

E-mail: leif.jensen@oecd.org

The World Bank (Washington, USA)

Mr. Robert D. Ebel

Tel: (+1-202) 473-4150

Fax: (+1-202) 676-9810

E-mail: rebel@worldbank.org

UNDP (Bratislava, Slovakia)

Ms. Anastazia Kozakova

Tel: (+421-2) 59337-401

Fax: (+421-7) 59337-450

E-mail: anastazia.kozakova@undp.org