Central Asia Policy Brief

No. 8

March 2013

Elliott School of International Affairs

THE GEORGE WASHINGTON UNIVERSITY

Central Asia Program

# Moving beyond the Leadership "Parlor Game": Foreign Investment and the Succession Issue in Kazakhstan

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**Key Points**

While it is no doubt true that the system of government in Kazakhstan concentrates power heavily in the executive branch, the mistake is to assume that an overly powerful executive and an overly centralized government are synonymous.

No matter who leads the country after Nazarbayev, Kazakhstan will likely continue to separate itself from the other Central Asian states as the preeminent destination for foreign direct investment in the region.

The status quo might not be desirable for advocates of free speech and human rights, but for foreign investors, more of the same is a net positive.

As a recent *PONARS Eurasia Policy Memo* on leadership succession in Kazakhstan aptly noted, "Speculation about succession has long been a favorite 'parlor game' of Kazakhstani intellectuals,"[1] to whose players we can also add the vibrant community of Central Asian specialists in government, think tanks, and the private sector. But whereas transition can be approached from a variety of angles, each with its own set of unique consequences, this particular policy brief speaks to this latter category—the private sector—in assessing a post-President Nazarbayev Kazakhstan for both existing and potential foreign investors. Unlike just about every other analysis in the last few years to concern itself with succession in Kazakhstan, here we drop altogether the "parlor game" of playing who's who among the country's elites, and instead focus on the much less sensational, but the much more telling structural grounds for why no matter who leads the country after Nazarbayev, Kazakhstan will likely continue to separate itself from the other Central Asian states as the preeminent destination for foreign direct investment in the region.

*Beyond Personalities*

The tragedy in Zhanaozen, a city in western Kazakhstan, where unarmed protestors were shot at by police and riots troops, leading to the deaths of at least 16 people in December 2011, and the processes thereafter have both confirmed and questioned many of the existing assumptions held among Central Asian specialists on stability within the country. The heavy handed tactics aimed at stifling dissent, the use of the demonstrations-turned-riots as an excuse to round-up the political opposition, the suppression of free speech, and then the rosy statements, post-Zhanaozen, from government officials about the improved situation in the region, all come as little surprise. But one decision in particular sent a shockwave throughout the London-, New York- and Beltway-based strategic advisory firms and political risk consultancies: the sacking of Timur Kulibayev, the president's son-in-law, as the head of Samruk-Kazyna—the sovereign wealth fund behind the state-run company from which the Zhanaozen demonstrators were on strike.

For "parlor game" enthusiasts, Kulibayev had been the frontrunner for the presidency, particularly after Nazarbayev's political advisor, Ermukhamet Ertysbayev, mentioned rather casually in an interview back in the summer of 2011 that if anything happened to the president, Kulibayev could step in without any problems.[2] The events of Zhanaozen threw that assumption on its head, however. There are, of course, other figures identified as presidential hopefuls. Some still hang on to a contender emerging from the exiled elite in London, others to the former prime minister and now the Head of Presidential Administration, Karim Massimov. Just as Ertysbayev's comments and Kulibayev's sacking revived succession rumors, when the prolific tweeter Massimov stopped tweeting one day, political risk analysts held their breath—*had he been punished? Too high a profile?*—only to see him promoted to a position that has increased his status as a possible heir.

But tracking potential successors in Kazakhstan is in many ways like following a company on the stock market from day to day, hour by hour: individuals gain favor, then they lose it, then they gain it back again: in the end, the outside observer (or analyst) has come no closer to figuring out where the stock is headed, or in the case of Kazakhstan, who will be the next president. The fault is in the focus: it is less about who will be in power and more about who won't—Nazarbayev—and whether or not his absence will have a serious impact on foreign investment in the country. Does he lead with a heavy hand? Absolutely. But will the country collapse when he's not at the helm, with foreign investors running for the door in realized fears of expropriation? At this point, having watched trends in Kazakhstan over a period of more than two decades since independence, the answer is a resounding *highly unlikely*.

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*Behind closed doors*

Many analysts who are not regularly concerned with the activities of foreign businesses in Central Asia do not realize that in Kazakhstan the ministries and the business community maintain a relatively positive and close relationship and frequently meet together behind closed doors—but not in the shady way one may suspect. These closed-door meetings are not James Giffen-inspired, back-room dealings but rather dull, unexciting working groups that pair mid- to high-level government officials with their private sector counterparts to revise tax legislation, reform the permitting and licensing process, or improve the legal climate for foreign investors, to name a few examples.

Take, for instance, the Foreign Investors' Council's (FIC) Tax Working Group. The FIC was set up by Nazarbayev as a forum for improved relations between the government and foreign investors, and while the annual plenary session that includes Nazarbayev is more theater than forum, the meetings of the monthly working groups that take place over the year are nonetheless very significant. The Tax Working Group is chaired by Marat Kussainov, the Vice-Minister of Economic Development and Trade, and Zhanna Tamenova, a partner in Ernst & Young and the head of the firm's Kazakhstan-based Tax and Legal practice. The members of the group include a handful of directors and deputies within the Ministry of Finance and the Ministry of Economic Development and Trade along with most of the accountants and tax specialists within the foreign business community, from ConocoPhilips and PwC to HSBC, Baker & McKenzie, ArcelorMittal, and Philip Morris, among several others.[3]

While the group can point to a series of practical successes—such as working together to decrease reporting period timelines from a monthly to a quarterly basis, or to limit property taxes to only "immovable property"—the structural value in these sorts of working groups is in the fact that ministry officials and their private sector counterparts are working together, forming relationships, and becoming more and more sensitized to each other's daily operating challenges and needs.

The same goes for working groups within the American Chamber of Commerce in Kazakhstan, or within the industry-specific associations that are heavily represented both by foreign *and* domestic businesses. The Association of Mining and Metallurgical Enterprises (AGMP), for instance, maintains close relations within the Ministry of Industry and New Technologies, as well as the appropriate legislators within the Majlis, and new legislation that would affect the mining industry is regularly coordinated with the association to allow for comments and suggested additions, subtractions, or clarifications. Again, practically speaking the AGMP might be able to point to a vague phrase within the legislation that may expose a mining company to unwarranted corruption and thus have it amended, while on a structural level the mining communities and their governmental counterparts are forming lasting bonds and coming to appreciate both what it takes for a mining operator to be successful as well as the legitimate policy interests of the ministries and the Majlis.

*A strong executive…decentralized*

While it is no doubt true that the system of government in Kazakhstan concentrates power heavily in the executive branch, the mistake is to assume that an overly powerful executive and an overly centralized government are synonymous. In Kazakhstan, for instance, a very significant level of power is decentralized to the oblast akims (heads of local governments), a distribution of power that has significant implications for the business community as we think beyond Nazarbayev. Specifically, the oblast akimat maintains wide powers in the approval process for general permits and licenses, is responsible for enforcing legislation that comes out of Astana, and further, is the primary point of negotiation on an annual basis for the many social projects that foreign businesses are compelled to support financially. Just as is the case with the working groups, the practical aspects to this system are almost secondary to the fact that the system itself forces foreign businesses to engage regularly—and thus form relationships—with local level leadership, sensitizing these officials to the daily operational challenges of a foreign firm in a given industry, while at the same time recognizing and responding to the very real interests of local level government.

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Take, for instance, the combined akimat-level duties of permitting and licensing approval along with enforcing national-level legislation. Astana, quite frankly, moves at a legislative pace that the oblasts have trouble matching. What this means in practice is that local level inspectors and regulators, along with the permit and license approval offices, often unwillingly misinterpret or willfully reinterpret existing laws with little consistency. This has forced the more sensible foreign operators to form very close relations with these individuals, ensuring that both the inspector and the foreign firm interpret the given law or regulation in the same way and in advance of its enforcement. This process is as simple as it sounds—local representatives for the foreign firm literally sit down with the local level inspectors and go through the relevant rules and regulations together to make sure everyone is on the same page.

Further, through a series of tax incentives, legal requirements and good old-fashioned "encouragement" from the Kazakh government, foreign firms typically invest in a variety of social projects on an annual basis—the key negotiator for these projects is the oblast akim. Often more formally referred to as the "Memorandum on Social Cooperation" that a firm will sign with the akim each year, the process once again literally involves the foreign operator sitting down with the akim, reviewing the akim's list of desired social projects in the oblast, and the foreign operator communicating to the akim what the company can and cannot do (either because of legal risks or the shareholder-instituted corporate philosophy of the firm). This process, particularly with akims that are less sensitized to the anti-corruption requirements of foreign firms, can at times be particularly tense, but over time both the akim and the firm typically find the middle ground that satisfies the akim's ultimate goals while allowing the firm to operate within the constraints imposed by its home country.

**Decentralizing power to the oblasts has had the structural effect over time, not unlike the largely Astana- or Almaty-based working groups, of bringing foreign businesses and local government together, allowing these corresponding stakeholders to better understand each other's interests and challenges.**

Taken together, while these developments are by no means ideal, and certainly would make the development assistance or good governance specialist rightfully cringe, it remains the case that decentralizing power to the oblasts has had the structural effect over time, not unlike the largely Astana- or Almaty-based working groups, of bringing foreign businesses and local government together, allowing these corresponding stakeholders to better understand each other's interests and challenges.

*Memories die hard*

The final structural element working strongly in favor of a relatively stable investment environment after Nazarbayev is the most obvious: that the quality of life in Kazakhstan has increased remarkably since independence, a trend that is largely attributed to Nazarbayev's leadership and the country's ability to draw foreign investment. A sizeable percentage of the population will still remember—*in a post-Nazarbayev Kazakhstan*—how bad it really was during the early 1990s, or at the very least will recall the stories retold to them by their parents of living in a world of daily uncertainty, with salaries unpaid for months at a time. Arguably, the privatization process under Nazarbayev's leadership during the 1990s is possibly the single most significant event that is subject to very different interpretations by Central Asian specialists and ordinary Kazakh citizens. In case of the former, we read stories about crony corruption, the selling of the state at bargain prices, and the consolidation of power under Nazarbayev for purely personal gain. But for the latter, the so-called selling of the state led to a return in production capacities that had plummeted in the early 1990s, to a return in budget revenues, and to a return to salaries paid regularly, on-time, and eventually at a higher rate. In the 2000s, for instance, coal miners working for the privatized Karaganda Metallurgical Enterprise (now owned by ArcelorMittal) saw their wages increase by over 80 percent.

Many within Kazakhstan, if not most, attribute the country's success since independence to Nazarbayev, whether analysts agree with such an assessment or not. And for any occasional doubters within the country, they need look no further than to their respective Central Asian neighbors, still seemingly struggling to find an economic "way out" since independence—an observation not lost on the Kazakh populace.

Even those most critical to Nazarbayev's rule still admit that he would almost certainly be re-elected with a healthy majority even if an election was to be declared "free and fair" for the first time in the country's history. The net effect of such popularity, rooted in the country's comparative success, is his legacy—he will be remembered fondly, and as such, whoever succeeds him will be compelled to connect his or her own narrative into the narrative of Nazarbayev. One can easily imagine the president's successor stepping too far out of the Leader of the Nation's shadow, or poorly handling a local crisis, only to be corralled back into line by local sentiment such as, "If Nazarbayev were still president, he would have never allowed *that* to happen." People do not want to return to a situation like the early 1990s, and thus the momentum of the country will largely move toward supporting a leader that, in essence, represents an extension of Nazarbayev, and thus, an extension of an investment environment that is comparatively friendly amongst its Central Asian peers.

Astana relations, oblast relations, and a populace that views Nazarbayev's leadership since independence as a glass half full, are only a handful of examples that all point to larger structural trends within the country that will constrain the next leader, whoever it may be, into maintaining the status quo, making the parlor game a lot less relevant than many of us think (as fun as it might be to play). Admittedly, the status quo might not be desirable for advocates of free speech and human rights, but for foreign investors, more of the same is a net positive.

[1] Sean R. Roberts, "Resolving Kazakhstan's Unlikely Succession Crisis," *PONARS Eurasia Policy Memo*, no. 231, September 2012.
[2] See, for example, G. Voloshin, "Post-Nazarbayev succession becoming most discussed issue in Kazakhstan," *Central Asia-Caucasus Institute Analyst*, March 8, 2011.
[3] See www.fix.kz for more information.

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