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The functional assignment process in the education and health sectors

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Phnom Penh, December 2018



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0.1. List of acronyms

ADB	Asian Development Bank
BMZ	German Federal Ministry for Economic Cooperation and Development
CNRP	Cambodian National Rescue Party
CoM	Council of Ministers
CPP	Cambodian People's Party
CSO	Civil Society Organisation
DAR	Decentralisation and Administrative Reform Programme
DEF	Department of Economy and Finance
D/M	District/Municipality
DP	Development Partner
DPM	Deputy Prime Minister
DoH	Department of Health
D&D	Decentralisation and De-concentration
EU	European Union
EU DAR	European Union Project for Decentralisation and Administrative Reform. An EU co-funded project of German bilateral cooperation with Cambodia.
EU SPACE	European Union Project for Strengthening Performance, Accountability and Civic Engagement. An EU co-funded project of German bilateral cooperation with Cambodia.
FA	Functional Assignment
FUNCINPEC	National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (Royalist Political Party)
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH
MCS	Ministry of Civil Service
MEF	Ministry of Economy and Finance
MoEYS	Ministry of Education, Youth and Sport
MoH	Ministry of Health
Mol	Ministry of Interior
NCDD	National Committee for Sub-National Democratic Development
NCDD-S	National Committee for Sub-National Democratic Development – Secretariat
OD	Operational District (administrative unit of the health sector)
PM	Prime Minister
RGC	Royal Government of Cambodia
SNA	Sub-National Administration(s)

SNDD	Sub-National Democratic Development
SNIF	Sub-National Investment Facility
UNICEF	United Nations International Children's Emergency Fund

0.2. Introduction

Since the first commune/sangkat elections in 2002 and the adoption of the “Organic Law” in 2008, which focuses on an autonomous role of the district/municipality and province/capital administrations, the functional assignment (FA) process and the scheduled transfer of functions and resources to the Sub-National Administrations (SNA) has been the core issue in the Decentralisation and De-concentration (D&D) policy of the Royal Government of Cambodia (RGC). However, 10 years later, most of the public administrative and social services, relevant for the daily life of the citizens, are still under strict control of the line ministries and their departments on province or even national level.

- Which developments have taken place during the last years in regard to FA?
- What are the visions, motivations and positions of the different stakeholders regarding its process?
- What are the main problems in service delivery on local level in the key fields of education and health, and would a transfer of functions help in addressing these problems?
- Which considerations and approaches could contribute to overcome the (obvious) deadlock in FA, which can be observed during the last years?

These are the questions dealt with in this study, which was commissioned by the European Union Project for Decentralisation and Administrative Reform (EU DAR), the European Union co-funded part of the Decentralisation and Administrative Reform (DAR) Programme in Cambodia, implemented by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH on behalf of the German Federal Ministry of Economic Cooperation and Development (BMZ). The study was conducted between September and the mid of December 2018. Events and developments, which have taken place afterward, could not be included in this study¹. The study solely reflects the views and opinions of the authors.

For many years, GIZ has played a key role implementing the cooperation agreements between the German and the Cambodian Government on sub-national democratic development. With funding from the BMZ and the European Union (EU), GIZ's EU Project for Strengthening Performance, Accountability and Civic Engagement (EU SPACE) has contributed much to the initial functional mapping and functional review efforts of the Ministry of Education, Youth and Sport (MoEYS) and the Ministry of Health (MoH). In close cooperation with its political partners, the Secretariat of the National Committee for Sub-National Democratic Development (NCDD-S) and the Ministry of Civil Service (MCS), EU DAR aims to achieve visible progress in the FA process. These efforts will be continued until the culmination of the programme in April 2019 and beyond².

This study is based on the analysis of the relevant laws and other legislative documents, political and administrative decisions and communication documents of the RGC, the National Committee for Sub-National Democratic Development (NCDD) and relevant line ministries, namely the MoEYS and the MoH. In addition, more than 30 interviews have been conducted on national level (government stakeholders and development partners) and on sub-national level. Besides the interviews with the sub-national stakeholders of district/municipality administrations and of line departments and offices in the education and health sector, interviews have also been conducted with service providers at pre-schools, primary schools, referral hospitals and health centres in Battambang Municipality and in one rural district in Battambang Province. While the opinions and assessments expressed in these interviews are personal in nature and do not represent the

¹ See for example the important policy speech by Deputy Prime Minister Sar Kheng during NCDD's Annual Work Plan and Budget Meeting in the end of December.

² The next project is set to start in May 2019.

stance of the Royal Government of Cambodia or its respective agencies, they have contributed to a realistic understanding of the status and problems of service delivery in these two key sectors. They also provided insights on the difficulties and expectations, related to the transfer or delegation of functions to local administrations.

We hope that the results and conclusions of this study contribute to the continued successful implementation of the FA process, with the improvement of service delivery to the citizens as the outcome.

Please note:

The terms related to decentralisation and deconcentration are employed in this document, as they are in the Cambodian context - which in some cases may differ from the international meaning of these terms.

0.3. Executive summary

With the first commune/sangkat elections in 2002 and the adoption of the “Organic Law” in 2008, the RGC initiated a systematic D&D reform, in order to bring the delivery of administrative and social services closer to the citizens and thereby to the local administrative level. Under the 10-year-long Sub-National Democratic Development (SNDD) Programme, which began in 2010, several legislative documents and political declarations were issued by the RGC, providing the framework for an increased autonomy of SNA, including budget and personnel management. The continuous promotion of the FA process, which can be considered to be the core of the whole D&D reform, showed the genuine interest of the RGC and the Ministry of Interior (MoI), its leading agency, in this process. The FA is to be seen as the key element in the governance reform strategy of the RGC.

The RGC decided to coordinate the national stakeholders in this process through the NCDD. However, in contrast to the NCDD and its secretariat, the Ministry of Economy and Finance (MEF) remained reluctant to support the process for years, as it deemed not to be in line with its own budget chapter logic. Only recently, with the adoption of the “Budget System Reform Strategy 2018 – 2025”, it became clear that the vision of the MEF on harmonised budgets at the respective local administration levels can go hand in hand with the MoI’s and the NCDD’s vision of a unified local administration and that joint concepts can be developed for different steps in the FA process.

The MoEYS and the MoH are key stakeholders in the FA process, as many of the services specifically relevant for citizens are in the education and health sector and the amount of personnel and budgets, connected with these services, are extraordinarily high. In both ministries, functional mapping and functional review processes took place during the years 2014-2016. But only in the case of the MoEYS, the inter-ministerial working group – which includes representatives from the NCDD-S, the MEF and the MCS – came up with a sub-decree on the transfer of functions in the education sector in 2016. Based on strong objections from parts of the Ministry and from staff in the local departments and offices, the Minister of Education, - supported by the Council of Ministers (CoM) - requested a review of the sub-decree, shortly after its dissemination. In detail, he requested to eliminate the payroll management and salary payments for teachers, as well as other key functions and sub-functions originally included, from the transfer package.

After difficult negotiations between the MoEYS and the NCDD-S took place, now there seems to be agreement to transfer the district/municipal offices of education, together with some small functions under the district/municipality administrations, first. A measure in line with the concept of “unified administration”. In a next step, part of the management of the services under the functions “early childhood education”, “primary education” and “non-formal education” could be delegated – not assigned - to the district/municipality administrations. Representatives of the local service providers – principals of primary schools and pre-schools, as well as school support committees – strongly agree with the decision, to not change the actual arrangements of payroll management and salary transfers under the Provincial Department of Education and the Provincial Treasury Office. However, given the serious problems with school facilities, the number of teachers and budgets for running costs, repairs and equipment, the representatives hope that the management and budget authority for the schools can be transferred soon to the district/municipality administrations as well. Here, they expect smoother communication, better mutual understanding and additional funding from the transfer.

In the health sector, general communication on the cooperation in the FA process took place between the Minister of Health and Deputy Prime Minister (DPM) Sar Kheng, in the function of the Chairman of the NCDD in 2016. In internal workshops and meetings of the MoH, including officials from Phnom Penh, Battambang and Kampot Province (as potential pilot places), several

problems were addressed. Especially the difficulty to transfer the Operational Districts (OD), which on average cover three administrative districts under the district/municipality administrations. Another focus of the internal discussions has been the issue of specific technical knowledge, needed for the management of services in this sector. It appears, that there is no intention at all to transfer part of the authority on the procurement of drugs to SNA. At the time being, this authority remains exclusively at the national ministry. In June 2018, in a joint meeting of the NCDD-S and the MoH inter-ministerial working group on D&D, it was decided that a sub-decree for the transfer of functions in the health sector should be drafted at the MoH until the end of 2018. At the time being, information regarding progress on the matter is not available.

During the year 2018, there were signs that after the deadlock, lasting since early 2017, some progress could be achieved in the FA process within a short amount of time. The halt of the core funding by Development Partners (DPs) for the NCDD-S, after the change of the political environment in 2017/2018, has certainly compromised the capacity of the RGC to implement the D&D reforms in a serious and systematic way. However, it has also provoked a general decision of the RGC to pressure the line ministries, to include the budgets for the implementation of D&D activities in their regular budgets. This development shows, that these reforms are considered very important by the RGC and thereby might strengthen the perception of ownership among important line ministries as well.

The key stakeholders – the Mol and the NCDD-S, the MCS, the MEF and core line ministries like the MoEYS - began to negotiate joint steps in a constructive manner. This advancement is based on an increased emphasis on and respect for the ownership of the different actors. More and more, they are perceiving the whole FA process not as a big bang, but as an incremental approach. A lengthy way of small steps, starting with what is technically not too complex. It is complemented with familiarising the respective local authorities with the tasks and activities in the different sectors, as well as harmonising it with the ongoing small activities at the SNA for these sectors, out of their unconditional funds.

An important fact is that the vision of unified local administrations at the Mol and the NCDD-S is in line with the efforts of the MEF to harmonise the different and not connected budgeting activities of line ministries and local administrations on SNA level in its new “Budget System Reform Strategy 2018 – 2025”. The MCS is now supporting the development with the new legal documents on personnel management on SNA level, adopted in 2017/2018.

After many disappointments and sudden changes of positions, on matters already agreed upon by line ministries during the years 2016/2017, it is understandable that there is abundant scepticism, whether things will start to move again in 2019 or not. It also remains to be seen, how the PM will deal with reluctance and lack of political will, which is still entrenched at certain ministries. However, taking the political instructions from the PM in July 2018 and the communication and cooperation activities between different stakeholders during the second half of 2018 into account, it seems appropriate to encourage the DPs to continue their support for the FA process in 2019. There has been substantial support in the past from different DPs. For example, the United Nations International Children’s Emergency Fund (UNICEF), in cooperation with the MoH, the MoEYS and the Asian Development Bank (ADB), in the fields of social services and local infrastructure, and GIZ in its cooperation with the NCDD-S and the MCS.

For the remainder of the EU DAR Project and its successor programme, GIZ should consider the upcoming opportunities to support the NCDD-S and, through the NCDD-S, the respective line ministries. As they are now working on the transfer of their district/municipality offices into the district/municipality administrations.

1. Background and history of the functional assignment process in Cambodia

1.1. History and status quo of the functional assignment process at the Royal Government of Cambodia

1.1.1. Fundamental decisions on the SNDD strategy

After the first elections under the new constitution in Cambodia in 1993, the formerly decentralised, yet barely coordinated state administration architecture, with its highly autonomous sub-national administrations, was centralised. Thereby providing the line ministries on the national level with a key role in the arrangement of administrative and social services for the citizens. The reasons for this measure were technical – the centralised authority in the different sectors allowed a more systematic input and support by international development partners into the modernisation and fast development of the whole public administration – but also political: FUNCINPEC, the National United Front for an Independent, Neutral, Peaceful and Cooperative Cambodia, as the co-winner of these first elections, did not see any possibilities to co-govern the country with a decentralised administration, as the Cambodian People's Party (CPP) was in strong control of the sub-national administrative structures.

However, already by the mid-1990s, the Minister of Interior and Deputy Prime Minister Sar Kheng started to prepare a return to more decentralised structures. He understood, that neither reasonable administrative and social services, nor a minimum of democratic participation of the citizens would be possible in the predominantly rural country, without decentralised administrative structures and competences. Following the first democratic commune elections in 2002 and the development of pilot urban district administrations in Battambang and Siem Reap in 2003/2004, a Law on Administrative Management of the Capital, Provinces, Municipalities, Districts and Khans ("Organic Law") was adopted in 2008. It was based on the vision of Sub-National Administrations providing the main public services in a responsive and accountable manner to their local communities. Public services should be brought closer to citizens, in order to improve their quality, efficiency and accountability in accordance to the local potentials and the actual situation and needs of each locality.

Shortly after the adoption of the Organic Law, in 2010 the "National Programme for Sub National Democratic Development" for the years 2010 – 2019 was put into place. With a road map to implement a decentralisation and de-concentration reform process.

1.1.2. The functional assignment process as a core component of SNDD

The functional assignment process is considered a core component of the SNDD Programme. It is supposed to provide the substance for the autonomy of the SNA in dealing with key services concerning the daily lives of the citizens. The other four components of the SNDD Programme – reform management, organisational arrangements at SNA, human resource management and development at SNA, financial management and SNA assets – can be considered as supportive elements and pre-conditions, in order to make a meaningful functional assignment process possible. Therefore, functional assignment was emphasised during phase II and phase III (from 2015 – 2017 and from 2018 – 2020) of the National Programme for SNDD. Whereas during the first phase the focus was laid on the preparation of necessary legal regulations for the reconstitution of the structure, management systems and procedures, as well as the capacity development for sub-national administrations.

1.1.3. The political, legal and administrative decisions and steps on functional assignment from 2008 – 2018

In the Organic Law, the fundamental legal framework was set for the re-establishment and reorganisation of autonomous administrative structures and management systems of SNA. It required the line ministries to review their functions, in order to transfer both, appropriate functions and resources to SNA.

Following the Law on Financial Regime and Asset Management of SNA (2011) in 2012, the “Sub-Decree on General Process of Functional Assignment” was adopted to ensure that the transfer of functions and resources would be implemented in a systematic manner. It included measures concerning phases, coordination, consultation and transparency, in order to promote the quality and effectiveness of public services. It described the steps of “Functional Mapping”, “Functional Review” and “Functional Transfer” – including functions, financial resources and staff -and elaborated how to implement the transferred functions and resources.

During the years 2016, 2017 and 2018, further political, legal and administrative documents were developed to promote and organise the functional assignment process:

- The “Royal Decree on particular statute of SNA personnel management” (MCS, April 2016);
- Letter of DPM Sar Kheng to PM Hun Sen requesting the transfer of line offices on district/municipality level under a unified district/municipality administration as a key step to speed up the transfer of functions and resources in the different sectors (September 16, 2016);
- The “Sub-Decree on the transfer of conditional grants” (January 2017);
- The “RGC Decision on the transfer of specific functions to sub-national administrations” (May 2017);
- The “Sub-Decree on the delegation of power to the Board of Governors of Capital, Province, Municipality and Districts for the management of staff at sub-national level” (MCS, December 2017);
- “Guidelines 788 and 789 for the implementation of this Sub-Decree” (MCS, February 2018).

At the “National Conference on Decentralisation and De-Concentration” on February 22, 2018, Prime Minister Hun Sen provided strong admonitions to ministers and civil servants to speed up and fully implement the functional transfer, within the framework of the decisions of the RGC.

After the withdrawal of key donor support from the NCDD-S and the SNDD policy of the government - a consequence of the forced dissolution of the opposition party, the Cambodian National Rescue Party (CNRP) - in July 2018, the **RGC disseminated an instruction signed by the Prime Minister to all relevant ministries and government agencies on the provision of a reasonably specified budget for the functional assignment process. It ought to be a part of their regular yearly budget and of setting up high level steering commissions, headed by the respective ministers to implement the D&D Policy.**

During the year 2018, the NCDD-S, as the coordinating and promoting instrument of the RGC for the SNDD Programme, has put an additional focus on its efforts to develop a unified administration on district/municipality level. The line offices on district/municipality level shall be integrated into the respective administrations under the governor. Given that they are already in charge of implementing functions in their respective sector or supposed to take over this responsibility under the de-concentration policy, the establishment of such unified administrations on the sub-national level would also include the transfer of these functions to the local

administrations. The PM has agreed to the request of the Chairman of the NCDD, Deputy Prime Minister Sar Kheng, to prepare a detailed concept on respective legislation for the establishment of these unified administrations on sub-national level. However, only during the year 2019 it will become clear, if this initiative, which is highly relevant for the whole matter of functional assignment, will materialise.

Conclusions: 10 years of continuous government actions, including legislation, administrative guidelines and political declarations to initiate and conduct the functional assignment process, show that there is a genuine concern, based on a clear vision, at the RGC: Functional and resource transfer to SNA is considered to be a key component of the D&D reform, which aims to bring public service delivery closer to citizens. The intended outcome is the improvement of the quality, efficiency and accountability of service provision, while taking the context, potential and needs of each locality into account. Recent declarations and instructions show, that this commitment continues, despite the serious obstacles encountered during the last years.

1.1.4. The specific role of the Ministry of Civil Service in the functional assignment process

For several years after its establishment, the MCS focused on the development of new, systematic rules and guidelines for the structuring and management of the civil service in the RGC. The specific problems and challenges of the administrative reform, in connection with the D&D process, did not find much attention. And the implementation of new policies and guidelines for the management of civil service on SNA level – i.e. performance measurement or indicators for achievement – was addressed only in theory. However, as the transfer of personnel, together with the respective functions and services from line office structures into the SNA, is considered to be necessary, the MCS had to put a new focus on this question as well. On April 4, 2016, the **“Royal Decree on particular statute on SNA personnel management”** was issued, and December 27, 2017, the **“Sub-Decree on the delegation of power to Board of Governor of Capital Province Municipality and District for management of staff at sub-national level”** followed. To enable the implementation of these basic legal documents, the “Guidelines #788 on Principles and Procedures for Appointment and Termination of Managerial Positions for Civil Servants of Line Departments and Line Offices who work at the sub-national level” and the “Guidelines #789 on Principles and Procedures for management of Sub-National Administration Personnel” were issued by the MCS on February 22, 2018 and implemented countrywide.

During the year 2018, the MCS has been working closely with the NCDD-S on the preparation of legal documents for the transfer of the offices of line ministries to district/municipality level under the district/municipality administrations. The transfer of the personnel of these line offices into the district/municipality administrations is a challenging issue. Last but not least due to the fact, that it is planned, that many of the small offices with just a few staff members shall be merged into the district/municipality administrations in bigger offices with different units.

1.1.5. The position and specific vision of the Ministry of Economy and Finance in the functional assignment process

The MEF plays a key role in the FA process. The transfer or delegation of functions to SNA can only be implemented, if the necessary budget for the management of the function is transferred or delegated too. Furthermore, the implementation of functions must be based on sound financial management and accounting structures and many functions are tied to procurement processes.

There is a general perception that the MEF, basing itself on a vision of a professionally structured and strictly controlled budget implementation process, is highly sceptical of any type of decentralisation of the public administration body, as it must be accompanied by a fiscal decentralisation process. Local self-administration includes by definition, that the financial management and budget implementation is controlled by locally elected representatives and their administrative bodies and not by central government bodies. However, today nearly 100 percent of the district and municipality budgets in Cambodia are still provided by the central government.

Such reluctance of the MEF and its line departments on capital/provincial level to accept budget autonomy of local administrations, has led to numerous obstacles in the implementation of political decisions and legal documents related to the preparation or exercise of activities in the D&D field. In the field of “permissive functions” of local councils under their legally established general mandate i.e., it is often a problem that decisions of the councils to fund activities, which are not specifically related to investments, are blocked by the Provincial Department of Economy and Finance (DEF) by deleting the funds for these activities in the approved budgets. A new example is the deletion of all funds for the specified activities in the field of D&D policy in the approved budget of the MoEYS (and some other ministries) for 2019 by the General Department of Budget of the MEF – in spite of the fact, that the PM had explicitly instructed the ministries on July 9, 2018, to include these specified funds in the regular yearly budget.

The reasons provided by the representatives of the MEF for such interventions into the decentralisation-related activities on national or on local level are normally, that these were lacking formal requirements – i.e. specification of budget lines or concretisation of outputs and indicators. The leadership of the NCDD-S qualifies this sort of problem as a “misunderstanding”, while continuing their negotiations with the MEF on a joint concept for “unified administrations” on district/municipality level. In fact, the MEF also provided the **“Sub-Decree on transfer of conditional grants”, No. 06 OrNkr.BK** on January 5, 2017, which created a necessary condition for the transfer of funds in connection with the transfer of specific functions to SNA.

Beyond the stated reservations against the decentralisation policy, held especially at the General Department of Budget of the MEF, there are other developments at the MEF, which are highly relevant for the FA process. At the General Department of Sub-National Administration of the MEF, a detailed “Budget System Reform Strategy 2018 - 2025” has been developed and was approved in early 2018. It is aiming at a much more systematic and integrated budget process at the SNA, as part of the whole public administration. It tries to overcome the separation between the budgets under the line ministries, administered in the provinces and districts all over the country, and those budgets provided to the province-, municipality/district- and commune/sangkat-administrations. In this new system, finance offices must be established at municipal/district administrations to oversee the accounting and budget implementation.

As it was expressed by the representatives of the MEF, due to the rules and procedures in the system of budget chapters, the transfer of functions from national level of line ministries to province or district administrations is highly complicated, time-consuming and impractical. However, the transfer of functions on the same administrative level (i.e. district) from a line office to the district administration would be easily possible in this system. Representatives of the

General Department of SNA in the MEF underline that they and the MEF are not principally against the decentralisation policy, yet they request to implement it in a way, which would fit to this new systematic and integrated budget system.

1.2. The functional assignment process in the education sector

1.2.1. Legal and political decisions and developments in the education sector

- **January 11, 2016** Establishment of an inter-ministerial technical working group consisting of representatives of the Ministry of Education, Youth and Sports, Ministry of Economy and Finance, Ministry of Civil Services, Ministry of Interior and the NCDD-S. The technical working group had the task of preparing the draft of a sub-decree on the transfer of education functions, to assist in disseminating the sub-decree and to support its implementation.
- **Sub-decree on transfer of education functions**
The sub-decree, issued on **14 September 2016**, assigned the functions of early childhood education, primary education and non-formal education, including the related financial and asset resources, to district and municipality administrations. It also agreed to the integration of the Office of Education, Youth and Sport into the district and municipality administration structures. As expressed in the sub-decree, it is a clear redistribution of the roles and responsibilities between the Ministry of Education, Youth and Sports and district and municipality administrations, to improve the effectiveness and service quality of the transferred functions. The Ministry of Education, Youth and Sport continued to play an important role in national policy planning, national curricula design, designation of standard textbooks and setting minimum standards for training, recruitment, technical support, monitoring and evaluation of the three transferred functions. The district and municipality administration are thereby accountable to the Ministry of Education, Youth and Sports, while also directly accountable to citizens represented by the district/municipality councils. The district and municipality administrations which receive these functions play a major role in managing and implementing those functions directly. This includes the preparation of an annual action and budget plan, management of education staff and teachers, construction, maintenance and repair of infrastructure, furniture and tools related to schools, collaboration and mobilisation, support from grassroots organisations, civil society organisations (CSOs) and other stakeholders.
- **On 29 September 2016**, an official dissemination workshop on the sub-decree took place with participation of the Ministries of Interior, of Education, of Economy and Finance and of Civil Service, including also sub-national administration representatives and education staff from provincial departments and district offices.
- After official dissemination of the sub-decree, **on 16 January 2017**, the Minister of Education met with education staff, district councillors and board of governors in the 14 districts of Battambang Province to prepare the piloting of the functional transfer of management of early childhood education, primary education and non-formal education to the districts and municipality.
- Following this meeting, a letter of the Minister of Education **was sent on January 23, 2017** to the Chairman of the NCDD, DPM Sar Kheng, with specification of risks and first suggestions of modified implementation of the sub-decree.
- In line with this letter the Council of Ministers issued a letter **on October 5, 2017** to the NCDD and the MoEYS requesting new principles to implement D&D Policy in the

- education sector. It requested to make a difference between the teacher payroll and payments, which should still stay under the Provincial Department of Education, as delegated function from the MoEYS. Meanwhile, the staff and budget of the District Offices of Education ought to be placed under the unified district administrations. It was requested in the letter to review the sub-decree accordingly.
- Based on discussion between the leaders of the NCDD Secretariat and the Ministry of Education, Youth and Sport on **June 14, 2018** an agreement was achieved to revise the sub-decree first and to transfer the functions step by step. In a first step, the district offices of education, officers and related resources should be transferred to the 14 districts/municipality in Battambang (as a pilot province). The Ministry of Education, Youth and Sports suggested in these discussions to maintain the status quo of current practices for the primary school management, teachers and school budgets, which are directly under the control of the Provincial Department of Education, Youth and Sports. In response to this suggestion, the NCDD Secretariat proposed to arrange more detailed technical discussions.

1.2.2. The views at the local offices and local service providers in the education sector

The views and opinions at the district/municipality education offices and specifically those of the local service providers in the education sector at pre-schools and primary schools, are highly relevant to understand, where the transfer of functions to the district/municipality administrations could lead to improve services, solve problems and create benefits for the citizens.

To understand the current situation, it is helpful to consider, that during the last years important improvements have been achieved in the fields of pre-primary/early childhood education and primary education.

- The regular monthly payment of salaries for the teachers of primary schools and of recognised pre-schools is arranged through bank transfers by the Provincial Treasury Office under the payroll management of the provincial departments of education. The teachers have opened bank accounts at the local branches of ACLEDA Bank and the system works efficiently with the salaries arriving in time, some days before the end of the month;
- In addition to the state-run pre-schools, now also many of the community-organised pre-schools have access to public funding, if they meet certain criteria;
- An amount of about 9,000 Riel per primary school student per year is earmarked in the budget of the MoEYS for the running costs of the primary schools (a somewhat smaller amount for pre-schools) and is transferred directly in tranches, several times per year from the national budget to the bank accounts of the respective schools;
- The principals of the schools decide, within certain limits, about its use – after agreement from the school support committees with representatives of teachers, parents and local administration (villages). Maintenance, small repairs, school materials and small items investments can be paid by these lumpsums. However, their irregular transfer makes it often impossible for the principles to cover urgent needs - which therefore have to be paid from funds collected through the school support committees, or provided by the local administrations (for details see the unpublished *“Baseline Study on the Performance of Pre-School-, Primary School- and Non-Formal Education Functions in Battambang Province”*, August 2017, prepared by a study team of the NCDD-S, the MoEYS and the MCS with support of GIZ);

- The principals are now appointed – due to the sub-decree prepared by the MCS - in accordance with certain criteria by the province governors. This helps (as it was reported in the interviews for this study) to avoid long periods of waiting and vacancies, which were the normal case in the former system, where the appointments were made by the Ministry on national level.

The teachers feel highly satisfied with the actual salary payment system. The principals of the schools and pre-schools as well as the members of the school support committees also welcome their autonomy in spending the budget lumpsums for the respective priorities of the school. However, they criticise that often the money transfers arrive with much delay and not regularly so that the schools have problems covering necessary expenses. Most of the interviewees from pre-schools and primary schools said, that they would prefer the transfer of the management of schools and budgets from the line ministry and provincial line departments to the respective municipal/district administration – with exception of the payroll and salary payment system. They believe that the communication with the local administration officials would be more frequent and easier than it is the case now, where indirect communication with provincial and national decision makers is the norm. Furthermore, district/municipal officials would easier understand and follow their wishes and priorities, when it comes to major repairs or equipment needs, which currently, at the province department level, rarely would find open ears.

The local service providers – principals at schools and pre-schools – expressed, that their most serious problems at the ground are lack of class-rooms and lack of teachers, which makes quality education often impossible. Facing these problems, they also believe that solutions could be easier found, if the respective decision-making authority equipped with conditional funds would be at the district/municipality administration. They could have a direct assessment of these problems at the ground and could look together, with the schools, for flexible solutions – putting priorities more in according to real needs than to theoretical plans and general criteria.

The directors and staff at the offices of education on district/municipal level do not see any problems either, should they be transferred together with their actual functions and activities – including the specific funds for these activities - under the respective district/municipality administrations and as part of a unified administration.

1.2.3. The actual status of the work on the functional assignment process in the education sector

After the request from October 2017 from the Council of Ministers to the MoEYS to review the 2016 sub-decree on the transfer of functions, for quite some time, there were no news on the matter from the inter-ministerial working group at the MoEYS. In summer 2018, the representatives of the MoEYS on the technical level signalled to the NCDD-S, that, following a step-by-step approach, the Ministry would prepare first the transfer of the offices of education on the district/municipal level under the district/municipal administrations, before they would discuss the transfer of any specific functions. It furthermore seems as they were considering to transfer only the Offices with their staff and a very small budget for running costs to the unified district/municipality administrations – but not the authority and budgets related to several activities conducted regularly by the district education offices. This should continue to stay under the line ministry and might be delegated, but not transferred later to the district/municipality administrations. For the details of implementation of these steps, the Ministry planned to study it

in some districts in Battambang Province, as the province continues to be considered as a pilot province.

After the by the PM signed July 9th, 2018 instruction, ordering the relevant ministries to set up steering commissions, directly under the respective ministers, to speed up the transfer of functions and to specify the budget for a detailed work plan on D&D measures in 2019, the technical level of the MoEYS drafted a plan for the composition of this steering commission and a work plan for 2019, including a specified budget for D&D activities. Furthermore, the MoEYS prepared documents on a sub-decree for the transfer of the education offices on district/municipality level, as well as on a review of the general sub-decree on the transfer of functions from 2016.

At the time when this study was finalised, there was no confirmed information available, whether these different moves prepared by the technical level of the MoEYS would be accepted by the Minister and transferred for final negotiation to the NCDD-S. However, after a meeting between the NCDD-S and the MoEYS on the level of Secretary of State on December 4, it was agreed that a sub-decree and inter-ministerial prakas on the transfer of the offices of education under the district/municipality (D/M) administration shall be jointly developed. Starting with a convention in mid-December. The convention took place on December 13 and 14 in Siem Reap.

Conclusions: After initial overall agreement by the MoEYS to transfer the functions “early childhood education, primary education and non-formal education” to SNA, the Ministry requested a re-consideration of the process. It claimed that, specifically in the field of school budgets and teacher salary payments, the current highly efficient process of management - under the control of the provincial departments of education - should continue to stay in place. Thereby, risks of disturbance and chaos in case of transferring these sub-functions to D/M administrations ought to be avoided. The MoEYS also requests that the assets/property, connected to the educational institutions on local level, should continue to stay under its authority. There seems to be consensus on the transfer of the district/municipal offices of education to the district/municipal administrations, within the framework of the “unified administration” concept. But it is still not clear,

- which of the activities currently conducted by the offices of education would be transferred together with the respective budget and,
- if further functions – especially in early childhood education and non-formal education – would be transferred or delegated in a further step as well.

1.3. The functional assignment process in the health sector

1.3.1. Legal and political decisions and developments in the health sector

- The Ministry of Health completed functional mapping and functional reviewing in **2015**. In a pilot project, the Ministry had issued a declaration on delegation of management of some health functions in commune health centres to some district administrations. The project lasted for 16 months, from September 1, 2014 to December 31, 2015. However, after completion of the pilot project, there was no expansion to other districts and no permanent transfer of such functions;
- The MoH established an inter-ministerial working group for preparing legal regulations of transferring health functions to SNA (**on July 7, 2016**);
- Minister of Health sent a letter to the NCDD Chairman (**October 24, 2016**), informing on the proposed functions of health sector for transferring to SNA, including: (1) functions on management of the capital and provincial hospitals and health operational district offices into the capital and provincial administrations; (2) functions on preventive services, health promotion, treatment and care, including medical treatment and rehabilitation services for drug addicts at capital / provincial referral hospitals, health centres, and community health services into districts/municipality administrations; (3) function on management of private health services to the capital, provinces, and districts. In the letter it is also mentioned, that the transfer of these functions shall take place in two phases: In 2017, the functions shall be transferred to Phnom Penh, Battambang and Kampot Provinces. By 2020, the above functions shall be transferred to the remaining provincial administrations, based on the evaluation of the results of the functional transfer in the first phase. The letter suggests that the Ministry of Health shall discuss its content with the NCDD Secretariat and request the review and approval from the NCDD;
- The Ministry of Health's D&D working group has organised several consultative workshops with the leadership of referral hospitals, operational district health offices and the departments of health from the capital and two provinces (Battambang and Kampot Province) in 2017 and 2018. The objective of these workshops was to introduce proposals on how to approach the transfer of the functions which were listed in the Minister's letter from October 2016. GIZ has been involved in these workshops through its programme with the MoH;
- The inter-ministerial working group of the MoH met on **8 June 2018**, led by a Secretary of State of the Ministry of Health to discuss and adopt a work plan for the implementation of the transfer, covering the years 2018 and 2019;
- The minutes of the meeting of the inter-ministerial working group of the MoH from **8 June 2018** mention the piloting of functional transfer for some functions in the health sector to be specified in a sub-decree, which shall be drafted and agreed upon until the end of 2018. The implementation shall start after detailed preparation during the year 2019 in Phnom Penh, Battambang und Kampot Province in 2020.

1.3.2. The views at the local offices and local service providers in the health sector

To assess which functional transfer to SNA would lead to improvement of health services and thereby be beneficial for the citizens, it is helpful, to consider the perspectives of those offices, which are supervised by the MoH, and specifically the views and considerations of service providers (referral hospitals, health centres).

At the Provincial Departments of Health and at the operational health districts, there are no major reservations against the transfer of the offices into a unified provincial or district/municipality administrations. However, they have doubts, whether the provincial and district/municipality administrations do have sufficient knowledge and understanding of the technical issues of the health sector to make reasonable decision-making and monitoring of the ongoing activities feasible. Furthermore, it seems unclear for them, how exactly the transfer of the operational districts shall be arranged, as the operational districts in the health sector - and the referral hospitals under these operational districts - normally cover the area of several administrative districts.

At the time being, all the staff members of the hospitals and health centres are paid regularly. They receive their basic salaries on their bank accounts at the respective ACLEDA Bank branches with the payroll managed by the provincial Department of Health (DoH) and the payments arranged through the Provincial Treasury Office. The referral hospitals receive standard sets of drugs and a certain amount – around 20 Million Riel per month – directly from the MoH, to be used for regular running costs of the hospitals. However, through fees they earn about the double amount of what they receive from the Ministry and use 60% of these funds for staff incentives, 1% for transfer to national level and 39% for diverse costs (small repairs, improvements etc.).

In a similar way, the health centres, which are normally covering one or several communes/sangkats, receive an amount of two million Riel per month for their regular running costs. They also dispose of nearly twice this amount in revenues resulting from service fees, which they can spend in a similar manner as the referral hospitals.

The interviewed representatives of the service providers in the health sector (directors of referral hospital, health centres) are satisfied with their financial autonomy. They nonetheless have serious complaints about the actual situation in their institutions. The financial management seems not transparent to them. They think that the medicines/drugs originating from the MoH are being resold to them in a highly overpriced form and report that most of their requests for major repairs, equipment and other issues to run the hospitals/health centres efficiently are ignored by the provincial departments of health. The biggest problems for them though, are the lack of staff and suitable facilities and infrastructure – issues, which, in their opinion, are not dealt with by the provincial DoH in a satisfying way.

There are different opinions on whether these problems could be better dealt with, in case that the hospitals/health centres would be managed by the administrative district/municipality administrations and the institutions being transferred under their authority. Some are doubtful, whether the district/municipality administrations would be qualified enough to deal with technical issues in the health sector. Some also have concerns regarding potential politically biased use of the health facilities by the governors and councillors. At the level of the provincial health department it was also mentioned, that the transfer of power on the appointment of directors for referral hospitals and health centres to the Provincial Governor (since 2017) has produced more complications and longer delays and vacancies of positions than before, when it was handled within the structures of the MoH. However, others believe that the communication with the district councillors, governors and administration on priorities, needs and solutions of problems would be smoother and more efficient, than within the structures of the line ministry. They also believe, that the transfer of the functions on pre-emptive measures and treatments under the district/municipality administration would lead to a better quality of health services for the population.

1.3.3. The actual status of the work on the functional assignment process in the health sector

After the adoption of the general work plan for the functional assignment process in the health sector on June 8, 2018, there has not been any further communication between the MoH and the NCDD-S, despite many efforts from the side of the NCDD-S. Meetings of the inter-ministerial working group in the MoH have not taken place either. It is not known, whether the preparation of a draft sub-decree on the transfer of functions in the health sector, scheduled in the adopted work plan to be finalised in 2018, has made any progress. Upon the instructions of Prime Minister Hun Sen from July 9, 2018, no response has followed either. The Ministry was ordered to establish a high-level and minister-led steering commission on the D&D process, to conduct monthly meetings in said format, and to specify a detailed budget for the activities on the D&D process in the health sector, as a part of the regular 2019 ministerial budget. Efforts by external actors (NCDD-S, consultants) to communicate about further steps with the D&D experts of the MoH on technical level during the second half of 2018, did not lead to concrete results.

Conclusions: *Despite the general acceptance by the MoH in written communication to the NCDD, to transfer selected functions to SNA, there is a reluctance at the technical level of the Ministry - which is reflected also in the actions of the Minister - to prepare any relevant functions for the transfer. The functions and sub-functions in the health sector are considered by the MoH to be too related and interconnected, as to be separated under different responsibilities. Further to the sub-function of payroll and regular transfer of the salaries to the staff of the hospitals and health centres, there is the whole field of procurement and distribution of drugs, where no intention exists to transfer it in any form to SNA. The reason appears to be obvious, as it is well known, that the official prices of the medicines, purchased by the Ministry at national level and distributed to each hospital and health centre, are multiple times higher than the market prices of these drugs.*

The dialogue process between the NCDD-S and the MoH has initially shown some progress – not least also due to the NCDD-S dropping some former functional transfer requests, which were not realistic. However, at this moment in time, the dialogue has already stopped for nearly half a year. It seems that a meeting is scheduled between the Chairman of the NCDD, DPM Sar Kheng, and the Minister of Health within the next weeks. Given that an agreement would be found on any functional transfer in the health sector, an intensive technical expert dialogue and negotiations would be required. These are needed to draft a concept on a realistic and meaningful separation, and to provide a harmonious, synergetic structure of centralised, de-concentrated and fully decentralised sub-functions in the health sector, for the benefit of the population.

1.4. The role of GIZ and its BMZ and EU co-funded projects and of other Development Partners in decentralisation reform with focus on functional assignment

1.4.1. Activities/efforts in the EU SPACE Project during the years 2/2014 – 2/2016

During the last years of the EU SPACE Project the support for the functional assignment process was one of the core fields of activities. Expecting functions to be transferred soon in the key sectors of education and health (beside others), the orientation, consulting and training activities of the project on national level focused on the NCDD-S but included also the line ministries, the MoEYS and the MoH. These activities included:

- Support to the NCDD-S for the finalisation of guidelines on functional re-assignment by the NCDD-S that follows the ministries mapping and reviewing of their functions;
- Feedback for the NCDD-S considerations on the draft functional review reports submitted by three ministries (among them MoEYS);
- Recommendations for the NCDD-S on the next steps in the FA process to be taken by the NCDD-S;
- Support through technical inputs and discussions with the NCDD-S senior management on the “road map guideline” (steps for effecting the actual transfers), in order to help the NCDD-S to adopt a more strategic perspective in its dialogue with the ministries on functional reassignment (proposing firstly functions for transfer that are clearly mandated/described, well-resourced and already de-concentrated within the Ministry structure);
- Facilitation of events for learning from experiences in the region on state architecture and assignment of functions at various tiers of government (inviting two decentralisation experts from Indonesia and Philippines for internal consultation events at the NCDD-S and for a national workshop with various stakeholders);
- Study visit to Indonesia with high-level decision makers from the NCDD-S, the MCS, the MoI, the MoEYS and the MoH;
- Study visit with technical staff of the NCDD-S, the MCS and the MoI to Indonesia to raise the Cambodian participants’ awareness and understanding of practical steps needed for preparation and implementation of a public personnel management system at sub-national level;
- Visit of an Indonesian education expert for the benefit of sub-national and national staff of the MoEYS and the NCDD-S.

1.4.2. Activities/efforts in the DAR Programme from 03/2016 – 07/2017

After the EU SPACE Project had been focusing on support, consulting and capacity building for the functional assignment process on national level, the follow up measure, the Decentralisation and Administrative Reform (DAR) Programme, shifted the main focus away from the national level and from policy issues to the support for pilot SNA in two provinces. The objective was from thereon to assist the SNA in the professionalisation of their administration, to engage on “permissive functions” and aid the preparations for the take-over of functions, which were to be transferred in the near future. This, first and foremost in the core sectors education and health. The support for the functional assignment process was not mentioned in the outcome, outputs and indicators of the programme, since it seemed too risky to concretise support on FA during the programme formulation phase. However, it continued to be included in the ongoing

consultative support for the NCDD-S. Especially during the first months, the consultative advice for the NCDD-S and MoEYS continued until the sub-decree, concerning functional transfer in the education sector, was finalised and adopted in September 2016. Furthermore, a “Baseline Study on the Performance of Pre-School-, Primary School- and Non-Formal Education Functions in Battambang Province”, prepared by a study team of the NCDD-S, the MoEYS, the MCS with support of GIZ, was also started.

1.4.3. Activities/efforts in the EU DAR Project from 8/2017 – 12/2018

The support for the functional assignment process with focus on education and health became again one of the core outputs in the project:

- An additional full-time advisor on functional assignment in education joined an already for DAR working expert on SNDD and functional assignment in providing advice to the NCDD-S, to support its promoting, coordinating and negotiating efforts in inter-ministerial working groups at the MoEYS and the MoH;
- The above mentioned “Baseline Study on the Performance of Pre-School-, Primary School- and Non-Formal Education Functions in Battambang Province” was completed – however, the final report is not yet approved by the inter-ministerial working group of the MoEYS – mainly due to dissenting opinions on its format (recommendations to be included or not);
- Suggestions for support by the project in coordinating/orientation of stakeholders (NCDD-S and line ministries) in the functional assignment process were not accepted by the NCDD-S;
- Consultative support for the NCDD-S was one of the factors which led to the adoption of a work plan 2018/2019 for functional transfer of the inter-ministerial working group on health in June 2018;
- A proposal of conducting a baseline study/sound assessment by the project on the ground (SNA) in the health sector was not accepted by MoH;
- The suggested preparation for work on orientation guidelines for the implementation of new functions, including training for respective civil servants on district/municipal level in the education and health sector are on hold due to the lack of progress on final decisions about the respective functions on national level;
- During the national conference on D&D in February 2018, an international expert from Malaysia was supported to share practical examples of FA within the region as well as the respective challenges and to provide recommendations for the FA process in Cambodia;
- Support was provided to the MCS for dissemination of guidelines for the management of sub-national personnel;
- A local short-term consultant is implementing a “cost analysis” (developing a format to fill in details of budget and personnel) for each of the discussed sub-functions in the education and health sector; there has been close cooperation between the consultant, the NCDD-S and the technical working group of the MoEYS – however the MoH was not accessible for the consultant.
- Workshops were supported (1) by EU DAR with the NCDD-S, the MoI and EU DAR team members jointly on the zero draft sub-decree on the revision of municipality/district administration and (2) with the NCDD-S, the MoI, the MoEYS’ technical team and EU DAR team members on the draft of the inter-ministerial prakas on transfer of the municipality/district office of education under the management of the municipality/district administration from December 12 – 14, 2018 in Siem Reap.

1.4.4. Support to the functional assignment process by ADB and UNICEF

Since 2012, the **ADB** supported the functional assignment process as part of the D&D policy under the SNDD Programme of the RGC. Furthermore, to support the NCDD-S on backstopping priority ministries in the functional mapping and review process, ADB provided local advisors to NCDD-S for the development of legal documents, management processes and piloting.

A special focus of ADB assistance was on the functional assignment process at the Ministry of Agriculture, Fisheries and Forestry and the Ministry of Rural Development.

The support for the FA process continued to be part of the Country Partnership Programme for the years 2014 – 2018. In November 2018, the appraisal mission for the new Country Partnership Programme, to start in 2019, expressed their opinion that the ADB Board would only agree to the new country programme in Cambodia, if further progress in the FA process could be perceived.

UNICEF employed international consultants assisted by local staff to support the MoH in the functional mapping and review/analysis process, with a report being submitted to the NCDD-S at the end of the said process.

In the education sector, UNICEF employed an international consultant to map and analyse the respective functions. Mapping and review/analysis did not propose major functional transfer, except early childhood education. Negotiations between the NCDD-S and the MoEYS led to the agreement to assign three major functions (early childhood education, primary and NFE) to D/Ms. In 2018, UNICEF further assisted MoEYS in preparing the implementation of the transfer of some sub-functions with pilot activities in districts in Battambang without involvement of the NCDD-S.

In the sector of Social Affairs, UNICEF engaged a local consultant to map the functions, review/analyse them and assist in drafting the legal documents to transfer functions. The implementation on the ground, however, is still open.

2. Outlook on the future development of the functional assignment process

2.1. Differences in the visions for the functional assignment process among different stakeholders

In the interviews with the different stakeholders in the functional assignment process on national and sub-national level – including service providers in the education and health sector – it was obvious that there are strong differences in their visions about the development of service delivery in their respective sectors in the future.

- The general vision of the government in the sub-national democratic development process, which guides its decentralisation and de-concentration strategies and steps, is based on the principle of subsidiarity: the lowest units of the public administration should oversee all functions and related services, which they can handle adequately. Only in cases where they cannot do so appropriately, functions and services should be under the authority of the higher public administration levels (provinces and ultimately national ministries). Thereby, it is believed that the functions and related services could be managed and offered in a more transparent and efficient way, oriented closely at the respective local needs and situations and responding in a targeted way to the request and priorities of the citizens.
- The visions of higher levels representatives within the MoEYS and the MoH on the FA process differ from the general subsidiarity-principle and transfer-oriented vision of the

RGC. In both ministries, they underline the improvement of the quality of the services as the most important aim and they believe that the relatively strong autonomy of the service delivery units – pre-schools, primary schools, referral hospitals and health centres – under the actual system would be in danger if these units would be transferred under unified local administrations. Different from the general view of the government that the transfer of functions and services under the local administrations would improve the quality and responsiveness to citizen's needs, the representatives of the key line ministries do not believe in this logic. Representatives from these key line ministries argue that it is the relative “leeway” of the service delivery units, which really ensures the quality and responsiveness of the services delivered. In addition, internal mechanisms of involvement of their customers and stakeholders (e.g. school support committees involving teachers) into the decisions on budget and priority developments contribute to the quality of the service delivery. This, however, is still under strict supervision of the line ministries.

2.2. From “it’s not possible because” to “it’s possible if” – systematic introduction of the time and capacity development factors

- Throughout the discussion of the functional assignment process during the last 10 years, there has always been the argument – raised by the line ministries in charge of major local service sectors – that the local administrations are lacking technical knowledge, management capacities and experience to take over major functions. However, as a universal argument against the transfer of functions to local administrations, this general concern cannot be taken seriously. It is clear, that the transfer of the qualified civil servants, who are now responsible for the management of these functions in the line ministries on national, provincial or district/municipality level under the respective local administrations, would be a key element of the process. Furthermore, the training of local decision makers and the transfer of the funds related to the respective functions and services would be needed. The open questions are, how much time it would take for these qualifying and capacity building measures at the SNA and for which functions and sub-functions it would be economically viable to be transferred in the short-, medium- or even long-term to province, district or even commune level. The answers on these questions cannot be given by theoretical considerations alone. Both key line ministries – the MoEYS and the MoH - have agreed with the NCDD-S, that they want to conduct pilot implementations at some areas in a first step and fine-tune, or even correct the sub-decrees for the implementation of functional transfers, after taking the experiences from these pilot places into account.
- Since the first general sub-decree was published in 2012, there have been important changes in the positions of the NCDD-S. These changes strongly influenced its role as the coordinating and steering body of the negotiations on functional assignment and transfer of function. The initial general request from the NCDD-S for functional transfer in the field of health included, for example, the functions of research and health standards – which are clearly national functions also in decentralised systems and which are no more mentioned by the NCDD-S during the last years. There are other sub-functions like the management of the payrolls of the many thousand teachers, doctors, nurses and health workers, which are today under the authority of the respective line departments on province level with the salaries transferred to the bank accounts of the civil servants by the Provincial Treasury Offices. This works very well, and even if it could be imagined that one day this could be done also by the district

administrations, there is no need to focus on this sub-function in the transfer discussion for now and for the near future. The transfer to the district administrations might include some risks of decreasing, for a certain time, the professional quality and accurate implementation and would not lead to any benefits for the affected civil servants. At the district/municipality administrations, the administrative directors at this moment are not eager to take over such sub-functions, even if they can imagine that, in theory, they might be able to implement them. Given that they would have enough qualified staff and sound trainings. The same applies for numerous procurement processes to be conducted for the purchase of school materials, health equipment and other items in the two fields of education and health. The administrative directors at district/municipality administrations made it clear that they are not ready to take over these sub-functions. They explained, that for such additional tasks they would need to set up finance/accounting offices at their administrations – which is planned by the Ministry of Economy and Finance for the future but might not happen within the next few years.

- It is interesting to witness, that in the offices of the line ministries on the district/municipality level and specifically also at the service delivery units (schools, hospitals, health centres), the stakeholders' expectations of benefits from being transferred under the local administrations are connected to the fact that these local administrations have started to use their own unconditional funds for small improvements or supports of the service delivery in education and health – mostly under the so called “permissive functions”. Repair or even installation of fresh water systems in primary schools, support of salaries for teachers of pre-schools, financing of transport of pregnant women to examinations and treatments at health centres and hospitals are some examples. At the moment, the funds of communes and districts are still very limited, but they are now increasing year by year. There is hope at the local service delivery units in education and health, that in the near future, combined funds from conditional budgets for the specific sector and from unconditional budgets of the districts/municipalities could be connected in a meaningful way to address the actual problems and shortcomings effectively. This vision of a harmonious linkage between the specific sector funds and of general local administration funds on the respective local levels is also a key element of the vision of the Ministry of Economy and Finance in its overall budget reform strategy for the SNA.
- Since 2016, the MoI and successively also the NCDD-S have put a stronger focus on the vision of “unified local administrations”. They stress the importance of the transfer of the line offices, including in the key sectors of education and health, under the respective district/municipality administrations – even if this would not yet be accompanied by the transfer of major functions. These major functions are now under management of the provincial departments of education and health and the district/municipality offices play only minor assisting roles. Generally spoken, the transfer of the line offices with their staff and small budgets under the district/municipality administrations could in fact be a meaningful first step of functional transfer, especially in the education and health sector. This is the case, even when it may look like the transferring of empty boxes without the content of the implementation of major functions. The local administrations could start to familiarise themselves with the tasks and technical knowledge in these different fields and harmonise their planning, budget and activities – as it is envisioned by the MEF in its budget reform strategy. However, it is difficult to imagine how the line ministries and their provincial departments would implement major functions, which are under discussion for transfer (management of pre-schools, primary schools, non-formal education, referral hospitals, health centres) without at least delegating them to the district/municipality

administrations, after these administrations have taken over the qualified staff in the education and health offices. At the time of conclusion of this study, the NCDD-S is in intensive negotiations with the Ministry of Civil Service and the Ministry of Economy and Finance, to work out a detailed and convincing joint concept for the fast transfer of all line offices under the district/municipality administrations in 2020. To achieve that, they would need a formal agreement of the RGC for this important step by early 2019. This would give the districts/municipalities time to prepare the inclusion of the respective personnel and budget in their draft budget plans for 2020 – to be provided by them in May 2019.

2.3. The issue of political will at the leadership of line ministries

Despite public announcements of support for the transfer of functions to the SNA, there is no doubt that during the last years there has been a serious lack of political will at the leadership of the MoEYS and the MoH to cooperate in the framework of the NCDD on substantial functional transfers in their respective sectors. The underlying reasons might not only be reluctance to transfer personnel, budget, assets and other resources to SNA, and by that diminish the importance of the own ministry, but also the fear to contribute too much to a strengthening of the political power of the Ministry of Interior as the national body to control the SNA. In difference to the situation in other countries with decentralised administrative structures, the SNA with their directly or indirectly elected councils in Cambodia can today only be considered as semi-autonomous. They continue to stay under the control of the Mol, which appoints the governors and has the capacity to intervene into the activities of the SNA whenever it feels necessary. Furthermore, other reasons and interests can also play a role. Considering for example the enormous financial power and opportunities related to the central procurement of drugs for the whole country at the MoH, with prices multiple times higher than market prices.

The speech of the Prime Minister at the National Conference on Decentralisation and De-Concentration in February 2018, and even more the detailed instructions in the document issued by the PM on July 9, 2018 on the consequent and fast implementation of the functional assignment process by the relevant ministries, might signal an increasing readiness of the PM to not accept such interest-based inactivity of key ministries in the D&D process anymore. The document of July 9, 2018 requests the Ministers to take the heading of the steering commissions over personally and participate in their monthly meetings and the drafting of activities. It furthermore commands the development of specific budget plans for this process as part of the 2019 budget of the respective ministries. However, at the time when this study is concluded (five months after the instruction was issued), only five ministries have informed the NCDD-S of the establishment of these new steering commissions under the Minister himself. In addition, the specified funds for D&D activities have been taken out of the 2019 budget of the MoEYS and several other ministries. In response, the NCDD has scheduled a high-ranking meeting before the end of 2018 in which it shall be discussed and agreed upon how, despite the denied budget, the necessary funds for these activities can be provided by budget re-allocations within the ministries or by support from the 2 Mio. USD budget of the NCDD-S for the year 2019.

2.4. How could progress be achieved in the functional assignment process in the future?

In view of the different visions, perceptions and concerns at the different stakeholders on national and local level in the FA process, the following considerations and approaches might help to achieve some progress in this process in the near and medium-term future:

- (1) The transfer of all line offices on district/municipality level under the respective district/municipal administrations in the framework of creating “unified administrations” is considered a potential shortcut by the NCDD-S in the process of functional transfers. Given the low level of de-concentration to the district/municipality level in some key ministries (like the MoEYS) and the small responsibilities, which the respective line offices have in administering major functions, this might be true or not. In any case, the transfer of these line offices into the district/municipality administration structure would be an important first step in assisting the local administration to become capable of managing major functions in the different sectors in further steps of the FA process. If – as it is expected by the NCDD-S - a formal approval by the RGC of this process of transferring the line offices into the district/municipal administrations would be achieved early in 2019, there would be a strong need of consultative support from the Development Partners of the RGC for the implementation of this process with its complicated implications. Help would also be required for the restructuring of personnel and budget.
- (2) The technical experts on the working level of the line ministries consider themselves, rightfully, to be better prepared and more specialised on drafting technical details in their respective sectors, when it comes to potential functional transfer concepts, than the staff of the NCDD-S. In the past, it oftentimes happened that draft concepts or even prakas or sub-decrees for the transfer process in certain sectors were produced by the NCDD-S. Different versions being drafted in parallel by NCDD-S and the technical working groups at the line ministries has also occurred. Pressure from the side of the NCDD-S to give priority to the discussion of their drafts, has often led to the feeling of lack of ownership at the line ministries. Implicating a difficult or even completely stalled dialogue. To give priority to the line ministries’ technical working groups in drafting the documents, will normally smoothen and speed up the process of coming up with agreed documents. Afterwards, once general approval at their respective leaderships is given, these would then be discussed with the NCDD-S and, wherever necessary, altered or adapted to the reality in the sub-national administration.
- (3) Within the line ministries, it is usually the general departments of budget and administration, which have more influence and internal power than the units created for the cooperation in the FA process with the NCDD-S. This is also true in the Ministry of Economy and Finance, regarding its General Department of Budget and the General Department of Sub-National Administration. In most cases, the general departments of budget and administration do not understand the logic of the FA processes and are not interested in it. As they are thinking and operating in accordance to their budget chapter logics, which includes not only strict separation between sectors (ministries) but also between the line ministries with their structures down to district level and the general SNA budgets. Specific orientations and trainings for the leading staff at the general departments of budget and administration of the MEF and the relevant line ministries on the reasons for and the logic of the FA process might be helpful to reduce their reluctance or even blockade when it comes to decisions in their ministry to cooperate in the FA process. In some of these ministries, major technical cooperation

- programmes are also being implemented in collaboration with donors like ADB, the EU, French or Japanese Development Cooperation. These DPs of the RGC should use their internal influence in these ministries to encourage the general departments of budget and administration to cooperate constructively in the FA process, as this is a key element of the sub-national democratic development and improvement of public services in the D&D policy of the RGC.
- (4) The interviews with the service providers in the education and health sector on the ground offered a clear picture on which major problems are hampering quality service delivery and which of these problems can be addressed better under a unified local administration, by transferring functions or sub-functions to district/municipality administrations. It makes sense to focus on the functional transfer during the next months and years in the key sectors of education and health on these functions and sub-functions. Further potential functional transfers, in fields where things are working well now or where the local administrations would feel overwhelmed (like payroll management and salary transfers, procurement of materials), can be considered at a later time.
 - (5) The transfer of major functions to district/municipality administrations is a complex issue which in some cases needs sophisticated and detailed solutions, which are not always easy to work out just by theoretical considerations and discussions. It therefore is no surprise, that both key ministries, the MoEYS and the MoH, have declared several times already, that they want to have a pilot phase first. In such a pilot phase, they would test the implementation of their sub-decrees, prakas and guidelines for the transfer of certain functions in a small number of localities (mostly mentioned Phnom Penh Capital and the provinces Battambang and Kampot). Development partners of the RGC should continue to support these piloting activities with technical assistance and funds. They should also continue to encourage the leadership of the line ministries not to discuss the drafted legal documents again and again. In this endeavour, the implementation of the pilots at the soonest time possible should be the priority. Discussing the legal and administrative documents can be done with more fruitful results, once the careful and professional evaluation of the piloting experiences has been done.
 - (6) For already quite some years, there has been the general notion, that the decentralisation and de-concentration steps and reforms must be harmonised with the administrative reform / reform of the civil service and the public financial management reform. It is oftentimes said, that the reforms of personnel structures and of budget provisions have to follow the decisions on D&D reforms and on functional transfers. However, it is not as simple as that: The general budget reform strategy for SNA, as it is prepared in the General Department of SNA in the Ministry of Economy and Finance, goes in line with the vision of a “unified local administration”. But, as unequivocally stated by the representative of the General Department of Sub-National Administration of the MEF, it is considered a bureaucratic nightmare and simply unviable to transfer functions and the respective budgets directly from the national level of a line ministry to a local administration. The transfer of functions, together with the respective budget, should take place within their logic and always on the same administrative level. Meaning, that functions, after being de-concentrated under a line ministry to a line office on district level, could be transferred from there to the district administration. Whether that is together with the line office or not. But it is considered highly problematic to arrange a delegation of a function from the national level of a line ministry to a district administration (as it is discussed at the moment at the MoEYS for the management of primary schools). This example shows that before a functional transfer is agreed between a line ministry and the NCDD-S, it is necessary to achieve

- detailed agreements with the ministries in charge of the public administrative reform and public financial management reform.
- (7) If the NCDD-S would want to demonstrate its strong commitment to the promotion of functional transfer, specifically in the education and health sector, it could also arrange to mobilise additional sources for the enlargement or rehabilitation of buildings of pre-schools, primary schools and health centres under the current instrument of Sub-National Investment Facility (SNIF).
 - (8) It has been mentioned at several occasions during the interviews for this study, that the reluctance at line ministries and their subordinate structures to transfer functions to local administrations is also related to the fact, that these local administrations are not yet considered to be truly autonomous. They are perceived to be under strict control of the MoI, as their powerful governors are appointed by this ministry. In addition, their budgets are still small and nearly completely provided by the national government. This fact differentiates Cambodia and its D&D political strategy from other countries, in which the transfer of functions to local administrations is quite advanced. Both of these factors, real political and budgetary autonomy, cannot be expected to be changed quickly in Cambodia. It is worthwhile, however, that the promoters of Sub-National Democratic Development and of a strongly decentralised structure of public administration in Cambodia pay attention to the mentioned factors. They might start to develop concepts on possible future improvements of the autonomy of the sub-national structures (i.e. considering the direct election of the governors) and how the dependency of the local administrations on budgets, provided to them by the national government, could be reduced step by step.

2.5. Potential further activities in the EU DAR Project until April 2019

New developments with regard to steps in the direction of a “unified administration” and first piloting of the transfer of sub-functions in the education sector are occurring only now, at the end of 2018. As the EU DAR Project is in its last few months of duration, it will not be able to undertake major new activities in the field of FA. Nonetheless, due to its formal structure and institutional cooperation with the partners the NCDD-S and the MCS, the project can still provide the FA process with targeted support at this moment, when the process seems to move on again after the deadlock:

- Continue and even extend consultant work on “cost analysis” (budget and personnel) for scheduled sub-functions to be transferred in education and health, as supportive clarification in negotiations with the MoEYS and the MoH;
- Provide support for workshops on the new draft documents from the MoEYS (sub-decree to transfer line offices, other documents on specific sub-functions) after expected agreement end of 2018 and request from the NCDD-S;
- Provide support via the NCDD-S to studies and other activities conducted by the MoEYS in preparation of the pilot transfer of line offices and some first sub-functions in Battambang province;
- Provide – if requested by the NCDD-S - short-term consultants to the NCDD-S on technical details in education (three functions under negotiation for transfer to SNA) and health (two recently suggested functions), who could join the NCDD-S staff and experts in their work with the MoEYS and the MoH in the inter-ministerial working groups and informal technical discussions with the two ministries. Last but not least, this could also shorten the process of drafting and implementing administrative

- guidelines for the new legal documents. Without such support this could take two years, as in the field of environment with the guidelines on garbage collection transferred to SNA;
- Provide an international expert on request of the NCDD-S to assist the NCDD-S and Line Ministries in the implementation of the “unified district/municipality administration” concept, with integration of the actual district line offices into the district/municipality administrations after potential formal agreement of the RGC in early 2019;
 - In case that this formal agreement of the RGC would be achieved, EU DAR could also, through consultative meetings and workshops, support the NCDD-S in developing the sub-decree and other relevant documents for this step before April 2019 so that district/municipality administrations would be enabled to include respective costs in their draft annual budgets for 2020 in time.

3. Conclusions

10 years after the adoption of the “Organic Law”, the FA process is still in an initial phase and only very few functions have been transferred to SNA. However, this does not mean that nothing has happened. At first, a long time had passed until the first concrete legal documents were developed and the functional mapping and review process was undertaken in the relevant ministries.

After that – during the years 2014–2017 – it became clear, that great expectations on the improvement of local service delivery, through fast and broad transfer of functions from line ministries to local administrations, were unrealistic. The main reasons were

- Reluctance and lack of political will at most of these ministries;
- Different visions and lack of understanding of the whole process among many of the stakeholders;
- Lack of capacity and preparedness to take over important functions at the district/municipality administrations;
- Serious doubts about benefits for the citizen, in cases of transfer of certain functions and services in general or at least for the time being.

In spite of that, the PM and the NCCD, as the coordinating body of the RGC for the D&D reform, continue to push for the continuation of the FA process. And there were signs during the year 2018 that some more progress will be achieved within short time. The stop of the core funding by DPs for the NCDD-S after the change of the political environment in 2017/2018 had a two-fold impact. On one hand, it has hampered the capacity of the RGC to implement the D&D reforms in a serious and systematic way. On the other hand, the general decision of the RGC to partly replace these funds with its own funds and to pressure the different line ministries to include the budget for the implementation of the D&D activities in their regular budgets, shows, that these reforms are considered to be very important by the RGC. This new commitment might strengthen the perception of ownership at important line ministries as well.

The key stakeholders, the MoI and the NCDD-S, the MCS, the MEF and core line ministries like the MoEYS have gained a deepened understanding of the shared ownership of the process and began to negotiate joint steps in a constructive way. They are now looking at the whole FA process not as a big bang in the different sectors, but as a lengthy way of small steps. Starting with what is technically not too complex. This shall also be combined with assisting the respective local authorities to become familiar with the tasks and activities in the different sectors and harmonising it with the actual small activities at the local administrations for these sectors out of their unconditional funds.

An important fact is that the vision of a unified local administration at the MoI and the NCDD-S is in line with the efforts of the MEF to harmonise the different and not connected budgeting activities of line ministries and local administrations on SNA level in its new “Budget System Reform Strategy 2018 – 2025”. The MCS is now also supporting the development with the implementation of the new legal documents on personnel management on SNA level, adopted in 2017.

After many disappointments and sudden changes of positions already agreed upon before by line ministries during the years 2016/2017, it is understandable that there are still remarkable doubts, whether processes will start to move again in 2019. And it still needs to be seen within the next months, how the PM will deal with the reluctance and the lack of political will, which are still detectable at some ministries. However, considering the detailed instructions from the top of the government and the communication and cooperation activities between different stakeholders, especially during the second half of 2018, it makes sense to encourage the DPs to continue their support for the whole FA process in 2019.

During the last months of EU DAR implementation, GIZ should consider the upcoming opportunities to support the transfer process of the line ministries’ district/municipality offices, together with some first small functions into the district/municipality administrations.

Annex 1: List of interviewees

National Level

- H.E Ngan Chamroeun, Secretary of State of Ministry of Interior, Chairman of NCDD-S
- H.E Chan Sothea, Undersecretary of State of Ministry of interior, Executive Deputy Chairman of the NCDD-S
- H.E Dy Sovan, Deputy General Director of General Department of SNA Budget of the MEF
- Mr. Han Daluy, Chief of Governance Office, Legislation Department of the Ministry of Education, Youth and Sports
- Mr. Chey Sambathphalla, Director of Policy Analysis and Development Division, the NCDD-S
- Ms. Kong Bunna, Deputy Director of Policy Analysis and Development Division, the NCDD-S
- Mr. Ly Bunthai, Consultant for Functional Transfer in Education and Health at the EU DAR Project

Development Partners/implementing agencies

- Mr. Chea Vibol, UNICEF
- Mr. Ouk Chamroeun, ADB
- Ms. Francesca Ciccomartino and Mr. Michele Crimella, Delegation of the EU in Cambodia
- Ms. Maraile Gørgen and team members of the EU DAR Project

Provincial Level

- A Deputy Governor of Provincial Administration, Battambang
- A Deputy Director of Provincial Department of Health, Kampot

Battambang Municipality, Battambang Province

- Chief of the Council/members
- Deputy Governor
- Administration Director
- Managing Officer and staff of Municipal Office of Education
- Principal and deputy principals of Chea Sim Primary School
- A representative of primary school support committee
- Principal and a teacher of a state pre-school
- Chief of Health Operational District Office, Battambang Municipality, Battambang Province
- Managing officials and staff of Commune Health Centre, Wat Koh commune, Battambang Municipality, Battambang Province

Moung Russei District, Battambang Province

- Chief of the Council/members thereof
- Governor
- Administration Director
- Managing Officer and staff of District Office of Education
- Principal of Tasal Primary School
- Principal of a state pre-school
- Chief of Health Operational District Office,
- A deputy director of Referral Hospital, Moung Russei Hospital
- Managing Officer of Commune Health Centre.

Annex 2: List of documents

From within the Cambodian Government

1. Law on Administrative Management of the Capital, Provinces, Municipalities, Districts and Khans issued on May 22, 2008 (proposed by Ministry of Interior)
2. National Programme for Sub-National Democratic Development (NP-SNDD) issued by RGC on June 22, 2010 (proposed by the NCDD)
3. Law on Financial Regime and Asset Management of SNA issued on July 17, 2011 (proposed by Ministry of Economic and Finance)
4. Sub-Decree on general process of functional assignment issued by RGC on May 10, 2012 (proposed by the NCDD-S)
5. Prakas On Delegation of Health Functions in Health Centres to the target district administration issued by the MoH on October 10, 2014 (Pilot project was funded by UNCDF implemented in Pursat (2 districts) and Battambang (3 districts))
6. Decision on Establishment of the Inter-Ministerial Technical Working Group issued by the MoEYS on January 11, 2016
7. Inter-Ministerial Prakas (Declaration) on the Procedure for Budget Implementation for Public Schools issued by the MEF and the MoEYS on April 6, 2015
8. Royal Decree on particular statute on SNA personnel management issued on April 4, 2016 (proposed by the NCDD and the Ministry of Civil Services)
9. Decision on establishment of Inter-Ministerial Working Group for preparing legal regulations to transfer health functions to SNA issued by the MOH on July 7, 2016
10. Sub-Decree on transfer of education functions issued on September 14, 2016 (proposed by the NCDD and the MoEYS)
11. Letter of Deputy Prime Minister/Minister of Interior and Chairman of the NCDD sent to Prime Minister on Proposal for acceleration of functional transfer to SNA and proposal for integrating line offices under unified district administration issued by the NCDD on September 16, 2016
12. Letter of Minister of Health to the NCDD Chairman informing the proposed functions of health sector for transferring to target SNA issued by the MOH on October 24, 2016
13. List of detailed functions of the MOH with division of responsibilities between the MOH and SNA (province, district/municipality issued by the MOH on October 24, 2016
14. Sub-Decree No. 06 OrNkr.BK on transfer of conditional grants issued by RGC on January 5, 2017 (proposed by the NCDD-S and the MEF)
15. Letter of Minister of Education to Chairman of the NCDD, DPM Sar Kheng with specification of risks and first suggestions of modified implementation of the sub-decree issued by MOEYS on January 23, 2017
16. Letter from the MoH's Minister sent to the NCDD Chairman on "transferring financial resources, assets and human resources for implementing the functions" issued by the MoH on January 23, 2017
17. RGC Decision on transfer of specific functions to sub-national administrations issued on May 22, 2017 (proposed by the NCDD-S)
18. Letter of Council of Ministers to the NCDD and the MoEYS requesting new principles to implement D&D Policy in the education sector issued by Council of Minister on October 5, 2017
19. Sub-Decree on the delegation of power to the Board of Governor of the Capital Province Municipality and District for management of staff at sub-national level issued on December 27, 2017 proposed by the NCDD-S and the Ministry of Civil Services
20. Guidelines #788 on principles and procedures for appointment and termination of managerial positions for civil servants of line departments and line offices who work at the sub-national level issued by the MCS on February 22, 2018 (This guideline is for the

implementation of the sub-decree on the delegation of power to Board of Governor of Capital Province Municipality and District for management of staff at sub-national)

21. Guidelines #789 on principles and procedures for management of sub-national administration personnel issued by the MCS on February 22, 2018 (This guideline is for the implementation of the sub-decree on the delegation of power to the Board of Governors of Capital Province Municipality and District for management of staff at sub-national)
22. Speech remarks and key comments of Prime Minister Hun Sen at the National Conference on Decentralisation and De-concentration on February 22, 2018
23. Minutes of the Meeting of the Inter-Ministerial Working Group to formulate the process of transferring health functions issued by the MoH on June 8, 2018
24. RGC instruction on constitution of steering commission to implement D & D for line ministries and SNA issued on July 9, 2018 (proposed by the NCDD)

From outside the Cambodian Government

25. EU SPACE Internal Paper, "Functional Assignment, Overview and some lessons learnt", Report prepared by Mr. Reth Phoung Pagna and Ms. Pen Kolmaly, February 2016
26. EU SPACE Final Narrative Report, 02/2014 – 02/2016
27. Gabriele Ferrazzi, Rainer Rohdewohld, "Country cases studies in functional assignment in Asia", in: "Emerging Practices in Intergovernmental Functional Assignment", Centre for Federal Studies, University of Kent (UK) and John Kincaid, Lafayette College (USA), 2015
28. Unpublished Baseline Study on the Performance of Pre-School-, Primary School- and Non-Formal Education Functions in Battambang Province, August 2017, Prepared by a study team from the NCDD-S, the MoEYS and the MCS with support of GIZ DAR.

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