THE REGULATION OF GOODS AND SERVICES MARKETS IN KAZAKHSTAN:

AN INTERNATIONAL COMPARISON IN 2018

OECD

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The statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.[1]

The Regulation of Goods and Services Markets in Kazakhstan: An International Comparison in 2018 [2]

1. Key highlights

- The results for 2018 economy-wide product market regulation (PMR) indicator show that regulations in Kazakhstan are less conducive to competition than the OECD average. However, Kazakhstan's overall ranking is similar to, or even slightly better than, that of other emerging-market economies covered by the PMR indicators (such as Argentina, Brazil and South Africa).

- The overall economy-wide PMR value masks large differences in the underlying regulatory areas. Distortions induced by the involvement of the state in business sectors are considerably more important in Kazakhstan than the OECD average. At the same time, barriers to the entry of domestic and foreign competitors are also slightly higher than the OECD average, albeit lower than in most emerging-market economies and even some OECD member countries.

- Among the distortions induced by state involvement, the extent of public ownership is well above the OECD average, with a high level of direct public control over enterprises. In light of this, a crucial policy issue is the relatively weak governance of State-Owned Enterprises (SOEs). Furthermore, the assessment of the impact of regulations on competition as well as of the framework governing the interaction with stakeholders (lobbying) are relatively underdeveloped in Kazakhstan.

- Regarding regulatory obstacles to domestic and foreign entry, barriers to trade facilitation and the differential treatment of foreign suppliers are notably higher than the OECD average, as are the barriers to entry in network sectors. On the other hand, the administrative burdens on starting up a business are relatively low in Kazakhstan, confirming the results obtained by other indicators relying more on *de facto* measures, such as the World Bank's Doing Business indicators in 2018.

- The Sectoral PMR indicators show that Kazakhstan scores poorly in terms of competition-friendly regulations in sectors such as electronic communications, air and water transportation as well as electricity. At the same time, the stance of regulation in retail distribution, natural gas, road and rail transportation as well as most of the professional services is close to the OECD average.

- Overall, based on Kazakhstan's responses to the OECD questionnaire, PMR indicators point to potential scope for reforms in several regulatory areas that can improve competition, thereby boosting productivity and innovation, as well as employment and benefits for consumers (Table 1 and 2).

- Regarding business exit, the results from the OECD insolvency regime indicator shows that insolvency procedures in Kazakhstan are comparatively efficient in facilitating the exit of financially non-viable firms, while avoiding to over-penalise failed entrepreneurs. This favourable outcome based on the assessment of *de jure*

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[2] The PMR results presented in this report and based on the data collected for the OECD and non-OECD countries as part of the 2018/19 exercise.

accomplishment is due in part to recent legislative changes in the country. This is consistent with the favourable results of Kazakhstan in the World Bank Resolving Insolvency index, which looks at bankruptcy procedures from a different angle.

Table 1. Kazakhstan's results on low-level PMR indicators

2018 PMR indicators, relative to OECD average

High-level PMR indicators	Medium-level PMR indicators	Low-level PMR indicators	Kazakhstan's score relative to OECD average **(higher = less competition friendly)**
Distortions Induced by State Involvement	Public Ownership	Scope of SOEs	High
		Government Involvement in Network Sectors	High
		Direct Control over Enterprises	Very High
		Governance of SOEs	Very High
	Involvement in Business Operations	Retail Price Controls and Regulations	Average
		Command and Control Regulations	Low
		Public Procurement	Average
	Simplification and Evaluation of Regulations	Assessment of Impact on Competition	Very High
		Interaction with Stakeholders	High
		Complexity of Regulatory Procedures	Average
Barriers to Domestic and Foreign Entry	Administrative Burden on Start-ups	Admin. Burdens for Joint-Stock Companies and for Personally-Owned Enterprises	Low
		Licenses and Permits	Average
	Barriers in Service and Network Sectors	Barriers in Service Sectors	Average
		Barriers in Network Sectors	Very High
	Barrier to Trade and Investment	Barriers to FDI	Average
		Tariff Barriers	High
		Differential Treatment of Foreign Suppliers	Very High
		Barriers to Trade Facilitation	Very High

Note: Categories are defined as "Very High" = PMR score higher than the OECD average + 2*OECD standard deviation; "High" = PMR score higher than the OECD average + OECD standard deviation.
Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

Table 2. Kazakhstan's results on the lower-level Sectoral PMR indicators

2018 PMR indicators, relative to OECD average

High-level PMR indicators		Low-level PMR indicators	Kazakhstan's score relative to OECD average **(higher = less competition friendly)**
Network Sectors	Energy	Electricity	High
		Natural Gas	Average
	Transport	Air	Very High
		Rail	Average
		Road	Average
		Water	High
	E-communications	Fixed	Very High
		Mobile	Very High
Professional Services		Lawyers	Low
		Notaries	Average
		Accountants	Average
		Architects	Average
		Civil Engineers	Average
		Estate Agents	Low
Retail Distribution			Average

Note: Categories are defined as "Very High" = PMR score higher than the OECD average + 2*OECD standard deviation; "High" = PMR score higher than the OECD average + OECD standard deviation.
Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

2. The 2018 OECD Product Market Regulation Indicators

1.   Pro-competitive regulation in product and service markets can boost living standards. Competition can raise output per capita by supporting investment and employment, as well as by encouraging companies to be more innovative and efficient, thereby lifting productivity. Pro-competition regulatory reforms may also help reduce income inequality (Causa, Hermansen and Ruiz, 2016[1]).

2.   In practice, regulatory policies that are put in place to address market imperfections and to protect against health and safety hazards or environmental damages often raise barriers to entry, restricting competitive pressures and hampering the economy's growth potential. A broad range of firm, industry and macro-level evidence shows that when this is the case, the adverse impact on productivity levels and growth can be significant. Ill-designed product market regulations can also affect aggregate productivity through their impact on the capacity of the economy to allocate capital and labour resources to fast-growing, innovative firms and sectors (OECD, 2017[2]).

3.   Estimates of the impact of pro-competition product market reforms suggest that the long-term gains in living standards can be realised relatively rapidly (Bourlès, 2010[2]; Bouis, 2012[3] ; Égert, 2017[3]). Lower barriers to entry supported by measures allowing new firms to compete effectively, can reduce consumer prices and facilitate greater job creation, especially in services where there is pent-up demand. Product market reforms, in combination with labour market reforms, can have positive employment and growth effects, even in weak cyclical conditions (OECD, 2016[3]).

4.　　In response to the challenge of how to design pro-competitive, level-playing field regulations, some 20 years ago the OECD developed a set of product market regulation (PMR) indicators. These indicators measure a country's regulatory stance in goods and services markets in an internationally comparable way to provide guidance on how to make regulation more competition-friendly, learn from international best practices and to track reform progress over time (Nicoletti, Scarpetta and Boylaud, 2000[4]). Since the first data collection exercise in 1998, the set of PMR indicators has been updated every 5 years. Each time, new areas and components have been added. The coverage of countries has been gradually extended beyond OECD countries, starting with the major emerging-market economies since 2008 and most of the Latin American countries since 2013 in collaboration with the World Bank.

5.　　The PMR indicators aim at measuring the degree to which policy settings promote or inhibit competition in areas of the product market where competition is viable. More specifically, they measure the incidence of regulatory barriers to competition via distortions induced by state involvement and various barriers that can hamper entry of domestic and foreign firms and products into the market. The PMR indicators are constructed by aggregating detailed information on regulatory practices across a large number of sectors, including network industries, professional and transport services. The information on specific aspects of regulation is regrouped into broader regulatory areas, which are in turn combined in one overall indicator (Figure 1). The aggregate economy-wide PMR indicator is complemented by a set of indicators that measure regulation at the sector level, which herein is referred to as sectoral PMR indicators (see Vitale, 2019[6] and PMR website[3] for more details).

6.　　The PMR indicators are key OECD policy tools, allowing cross-country comparisons and identification of best practices to achieve a business-friendly environment, improve the openness and conduct of business, assure a level playing field and facilitate quality job creation. In this respect, they represent an instrument for the governments to identify which regulatory areas could become more competition-friendly and provide examples of alternative and best practice regulatory set-up from other OECD and non-OECD countries. The PMR indicators are an integral part of the OECD's *Going for Growth* exercise and OECD *Economic Surveys*, where they are the basis for formulating recommendations for policy reforms.[4]

7.　　This report presents the 2018 PMR indicators and the results for Kazakhstan based on the responses to the PMR questionnaire filled between February 2018 and April 2019 and verified in the series of interactions with OECD team (Box 1). It first presents how the indicator is structured to measure the stance of regulation in regulatory domains having an economy-wide impact as well as in major network industries and a number of professional services. It then presents the results for Kazakhstan and compares them with those in other countries.

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[3] http://www.oecd.org/economy/reform/indicators-of-product-market-regulation/

[4] They are also a key tool for other international bodies and organisations: the World Bank, the IMF and the G20 (including in the OECD/IMF joint assessment the G20 growth strategies and the OECD's Enhanced Structural Reform Agenda report) and the European Commission. The PMR indicators are also among the key indicators to track progress on structural reforms in APEC.

Box 1. PMR questionnaire completion rate for Kazakhstan

The OECD's PMR indicators are based on a large amount of information on regulatory structures and policies that is collected through a questionnaire sent to governments in OECD and non-OECD countries. All of the questions are closed questions that can either be answered with numerical values (e.g. the number of bodies that need to be contacted to start a business) or by selecting an answer from a pre-defined set of menu (e.g. the question whether a specific regulation exists can be answered with 'yes' or 'no'). The qualitative information is transformed into quantitative information by assigning a numerical value to each possible response to a given question.

Missing questionnaire responses can affect the accuracy of the PMR indicators and the policy insight. The share of completion of the PMR questionnaire was on average around 95% for OECD and some non-OECD countries. This broadly corresponds to the answer rate for Kazakhstan (96.4%). For some areas, i.e. Barriers in Services Sectors and Government Involvement in Network Sectors the response level for Kazakhstan was slightly lower (90% and 92% respectively). The missing answers were not included in the calculation of the relevant low-level indicators, and the low-level indicators values were adjusted to the available number of questions.

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3. The structure of the 2018 PMR indicator

8.   The structure of the 2018 economy-wide PMR indicators distinguishes between: (i) regulatory barriers to competition through distortions to the level playing field induced by state ownership and involvement in controlling prices and activity and (ii) regulations inhibiting competition through barriers to the entry of new firms into the market. These two broad categories are each decomposed in three sub-elements that comprise in total 18 low-level components of regulations as shown in Figure 1.

9.   The structure is broadly balanced in terms of the information included in each low-level component, to avoid that certain aspects of the regulatory environment have a much greater weight compared to others in determining the value of the indicators. All indicators are presented on a 0 to 6 scale, where 6 indicates regulations least friendly to competition. More details on the PMR methodology can be found in Vitale, 2019[5]. All the answers reflect the situation as of 1 January 2018 in order to ensure comparability.

Figure 1. Structure of the economy-wide PMR indicator
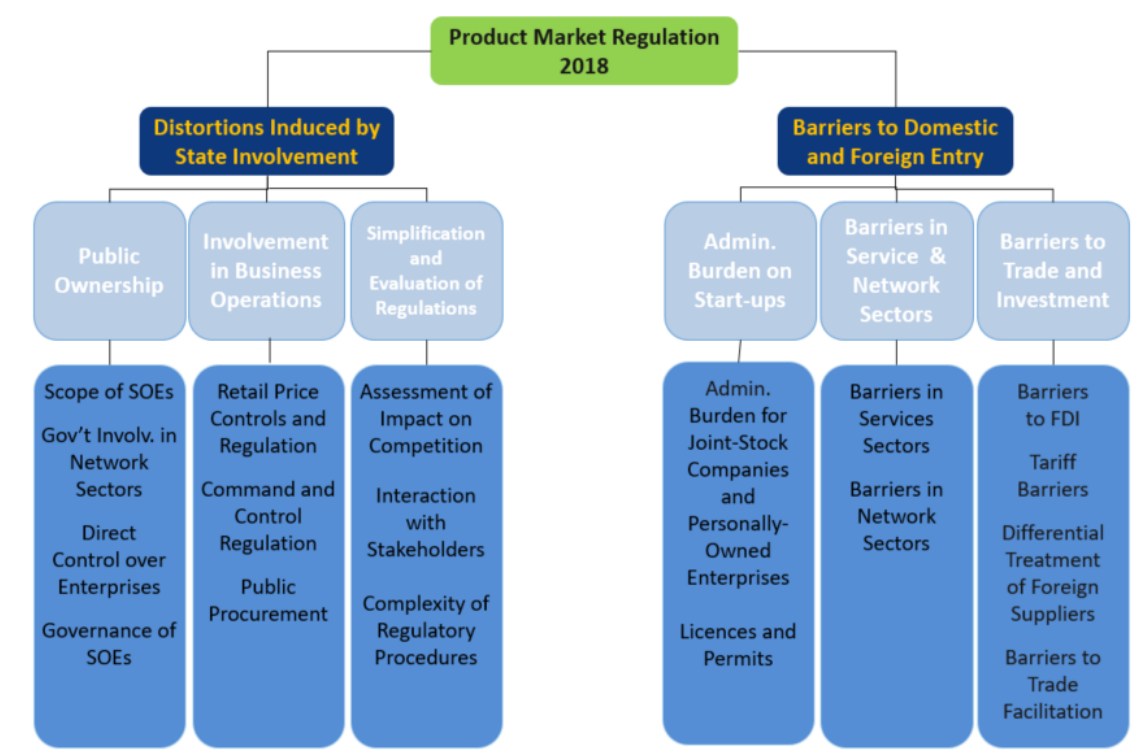
Source: Vitale et al. (2019).

3.1. Distortions Induced by State Involvement

10.   The high-level PMR indicator component on *Distortions Induced by State Involvement* captures the distortions that can be caused by the involvement of the state in the economy through the activity of state-owned enterprises and other forms of control and obligation imposed on private firms (such as price regulation).

11.   State interventions in the market have a number of potentially distorting or undesirable effects. For examples, governments may tend to opt for more direct command-and-control regulations, as opposed to more flexible policy tools that rely more on market mechanisms and incentives. Price controls can protect consumers from abuse of monopoly power as well as facilitate the entry of new participants where markets fail. At the same time, in sectors where competition is viable, price controls can hamper market adjustment, innovation and ultimately growth.

12.   To capture these types of barriers to competition *Distortions Induced by State Involvement* aggregates 3 medium-level components (Figure 1):

- *Public Ownership* contains information on the scope of ownership and direct control by the state in the economy (25 sectors) and especially in a number of key network sectors (i.e. oil and gas, transport, communication). It includes elements of the governance of SOEs, such as the degree of insulation of SOEs from market discipline and degree of political interference in the management of state-owned enterprises;

- ***Involvement in Business Operations*** measures how market prices are controlled and regulated in eight key sectors (air transport, road freight transport, retail distribution, e-communication, electricity, gas, water, professional services) as well as the extent to which the government reverts to coercive (as opposed to incentive-based) regulation. It also evaluates the system of public procurement to assess whether it creates unnecessary barriers for domestic and foreign suppliers, discouraging firms from participating in public tenders and thus reducing or distorting competition for public contracts.

- ***Simplification and Evaluation of Regulations*** which evaluates the complexity of regulatory procedures, and in particular whether the impact of new and existing regulations on competition is assessed in order to ensure that unnecessary distortions to competition are minimised. It also examines the rules for engaging stakeholders and ensuring transparency of lobbying activities.

13.   In many countries, state-owned enterprises (SOEs) are the main providers of key public services, including public utilities. This means that their operations have an impact on citizens' everyday life and on the competitiveness of the rest of the economy. SOEs are increasingly prominent actors in international markets, as they expand their investment abroad, especially in developing countries. Ensuring that they operate in a sound and competitive regulatory environment is crucial to maintaining an open trade and investment environment that underpins economic growth (OECD, 2015[6]). In emerging markets, SOEs often represent a substantial share of GDP, in which case it is even more important to establish high levels of transparency and accountability in such economies.

14.   Effective governance of SOEs is thus essential for efficient and open markets. They often have a privileged market position in comparison to the private companies – for example, due to exemption from competition regulation rules or privileged access to financing. This can have a negative effect on competition and hampers the level playing field by not allowing all ideas and business models an equal chance in the market test. In this respect, the presence of SOEs in sectors and activities that lend themselves to healthy market competition may prevent productivity and efficiency gains from being fully reaped, including through the reallocation of labour and capital towards more productive firms. For instance, OECD (2016)[4] and Nicoletti and Scarpetta, (2003)[7] show that countries in which public ownership in the business sector is limited, and barriers to entry are low, are more successful at improving multi-factor productivity growth (MFP) than countries with stringent anti-competitive regulation.

3.2. Barriers to Domestic and Foreign Entry

15.   Entrepreneurs, new firms and ideas are at the heart of economic activity, innovation, competition, and growth. The early economic literature, from Schumpeter (1911[7]) to Baumol (1990[8]), has highlighted entrepreneurship as the driving force for change and innovation in a market economy. Schumpeter's theory of "creative destruction" postulates that the entry of entrepreneurial ventures pushes out obsolete and inefficient firms and brings innovative technologies to market. It also puts pressure on incumbents to innovate and become more efficient. Entrepreneurship is also crucial for the vitality of the economy and economic growth through new job and market creation – hence employment and productivity growth (Haltiwanger, 2012[9]; Haltiwanger, Jarmin and Miranda, 2013[10]; Criscuolo, Gal and Menon, 2014[11]; Calvino, Criscuolo and Menon, 2015[12]).

16.   In particular, greater international openness remains a powerful vehicle for the rapid diffusion of innovation and productivity. This applies both to the diffusion of

technology through trade in goods and services, participation in global value chains, and to the diffusion of entrepreneurial know-how and managerial best practice through foreign investment and the presence of multinationals (OECD, 2017).

17.   ***Barriers to Domestic and Foreign Entry*** includes 3 elements (or medium-level components):

*   ***Administrative Burden on Start-ups*** measures the complexity of the procedures necessary to start a joint-stock company and a personally owned enterprise. These include the number of mandatory procedures required to register a business among a suggested list of around 40, and whether they can be done through a one-stop shop. It also covers the number of public and private bodies that typically need to be contacted as well as the total monetary cost to complete the procedures. Finally, it measures both the number and ease of obtaining the relevant licenses and permits to start a business.

*   ***Barriers in Network and Service Sectors*** contain data on the level of the regulatory and legal barriers to entry and expansion of firms in network and service sectors. In the case of network industries, this captures legal restrictions on the number of competitors allowed to operate a business in segments of the industries other than the network component, as well as conditions of third-party access to the transmission grids (electricity and gas) or infrastructure (telecoms), and the nature of vertical separation between the various segments. In the case of professional services, this also captures restrictions on entry through law or self-regulation, the number of exclusive rights or shared exclusive rights in the exercise of tasks related to the profession. In the case of retail distribution, it captures various restrictions to the establishment of a retail outlet as well as the presence of legal monopoly on the selling of specific goods and services.

*   ***Barriers to Trade and Investment*** include all the information on the level of the barriers to foreign entry and trade, including tariffs and limitations to foreign investments and foreign imports of goods and services. It captures the extent to which foreign suppliers face a different treatment relative to domestic suppliers with respect to public procurement, as well as in the areas of air transport, water transport, and professional services. It captures restrictions to foreign trade through both tariffs and non-tariff barriers, for instance through cumbersome behind-the-border procedures or difficulties for foreign suppliers in getting relevant information.

3.2.1. *Sectoral PMR Indicators*

18.   The PMR indicators include a set of indicators that measure regulation in key selected non-manufacturing sectors (***Sectoral PMR indicators***). Measuring regulation in non-manufacturing sectors, such as retail trade, professional services and network sectors such as energy, transport and communication is particularly important as these sectors represent around two-thirds of economic activity in most economies. In many countries, such services, notably telecommunications and retail distribution, are relatively dynamic in terms of productivity growth and employment. Moreover, most of these services provide significant intermediate inputs in the production of other services and manufacturing products. Economic regulation tends to be concentrated in services and other non-manufacturing sectors. Finally, such sectors are often characterised by limited exposure to international competition, while domestic regulations impact strongly on economic activity

and the welfare of consumers, affecting the quality, the variety and the price of products (Wölfl, 2003[13]; Wölfl and Pilat, 2005[14]; Wölfl, 2005[15] and OECD, 2001[16]).

19.   The 15 sectoral level indicators are grouped in ten higher-level *Sectoral PMR Indicators* (Figures 2, 3 and 4):

- Electricity
- Natural Gas
- Mobile E-communications
- Fixed E-communications
- Rail Transport
- Air Transport
- Water Transport
- Road Transport (Freight and Passengers by coach)
- Retail Distribution
- Professional Services, separately for Accountants, Architects, Civil Engineers, Estate Agents, Lawyers and Notaries.

Figure 2. Structure of sectoral PMR indicators: Network sectors
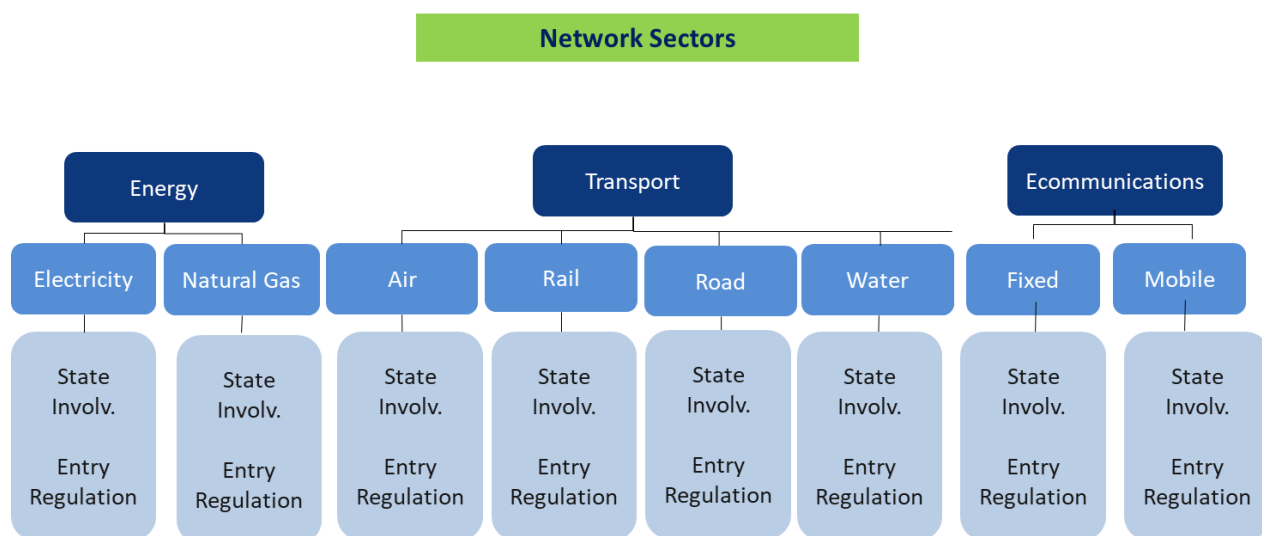
Source: Vitale et al. (2019).

Figure 3. Structure of sectoral PMR indicators: Professional services
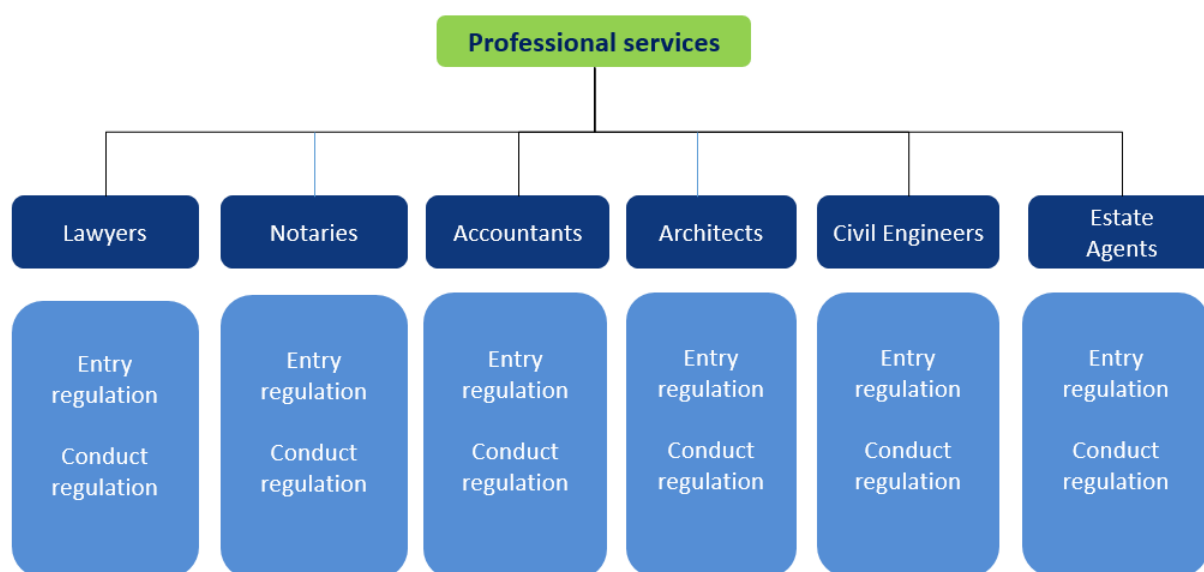
Source: Vitale et al. (2019).

Figure 4. Structure of sectoral PMR indicators: Retail Distribution

Source: Vitale et al. (2019).

4. Kazakhstan's performance on the 2018 PMR indicators

4.1. Results for the economy-wide 2018 PMR indicator

20.   The *economy-wide* indicator for Kazakhstan suggests that overall product market regulation creates relatively high barriers to competition (Figure 5). The country's performance on the sub-component ***Distortions Induced by State Involvement*** is notably weaker than the OECD average, with values similar to emerging-market economies such as Argentina, Brazil and South Africa (Figure 6).

Figure 5. Economy-wide overall PMR[5]

Index scale 0 to 6 from least to most restrictive, 2018
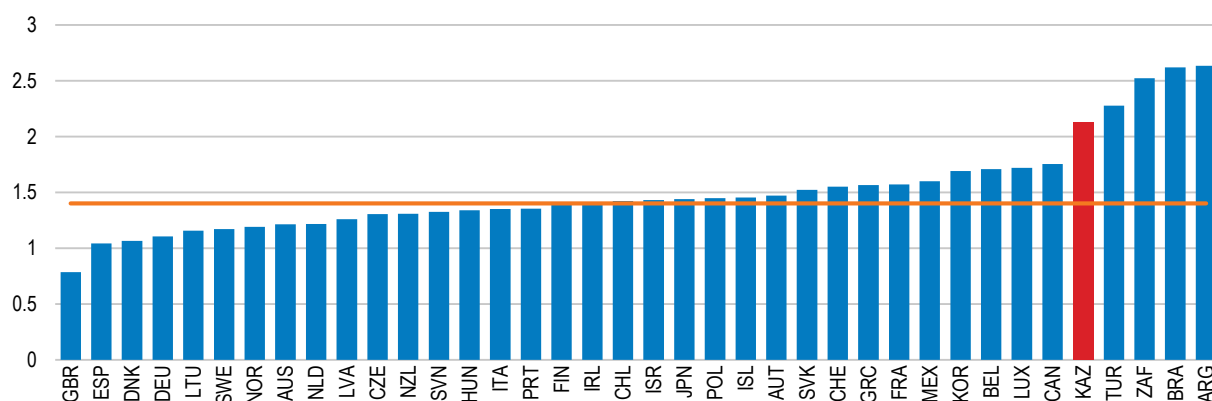
Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

4.2. Results for Distortions Induced by State Involvement

21.　　Kazakhstan's regulatory stance comes out as less friendly to competition than most economies on two of the three medium-level indicators covered by ***Distortions Induced by State Involvement***: i) public ownership and ii) simplification and evaluation of regulations. On the third medium-level indicator – involvement in business operations - it is closer to OECD average (Figures 7, 8 and 9).

Figure 6. High-level component: Distortions Induced by State Involvement

Index scale 0 to 6 from least to most restrictive, 2018
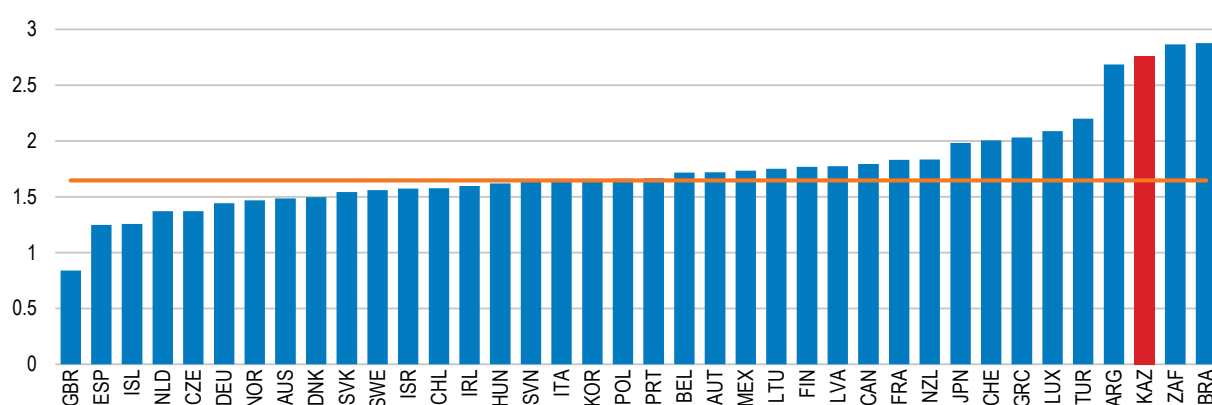
Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

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[5] In all the graphs from this paper, the statistical data for Israel are supplied by and under the responsibility of the relevant Israeli authorities. The use of such data by the OECD is without prejudice to the status of the Golan Heights, East Jerusalem and Israeli settlements in the West Bank under the terms of international law.

4.2.1. Public Ownership

22.   Kazakhstan scores particularly high (least competition friendly) in the area of **Public Ownership** (Figure 7), reflecting the widespread presence of the state in the economy, combined with the governance of SOEs that distorts the level-playing field in their favour vis-à-vis private firms (Figures 10, Panels A to D).

23.   More specifically, it has the highest score in the *Scope of SOEs* component reflecting the high importance of state-owned companies in the economy (Figure 10, Panel A). In Kazakhstan, the state owns at least one company in the 16 main economic areas out of 25 analysed in the questionnaire, including in a number of manufacturing sectors and financial services. The government also holds equity stakes in the biggest company in most of the key network sectors (gas, electricity, rail, air and water transport). The score of the component *Government involvement in the Network Sectors* (Figure 10, Panel B) is also high for Kazakhstan in comparison with other countries. This reflects that the biggest gas company KazMunayGas, the National railway enterprise "KTG-passenger transportation" and largest domestic air company "Qazaq Air" fully belongs to the government.

24.   Kazakhstan also scores high on *Direct Control over Business Enterprises* which is due to the fact that legislative changes are needed in the case of partial or complete sale of government stakes in state-controlled firms in a number of sectors that are deemed strategic.

25.   The *Governance of SOEs* plays important role in the effective market functioning of SOEs. A well-functioning SOEs governance system is particularly important for countries such as Kazakhstan where SOEs account for an important share of GDP and employ a large share of the workforce. Kazakhstan ranks significantly worse than the OECD average on the component *Governance of SOEs* (Figure 10, Panel D), mainly due to the fact than Kazakh SOEs are often not covered by the same laws as private firms and could benefit from favourable treatment as compared with the private sector. This situation may inhibit competition and hamper the establishment of level playing field in the market.

26.   SOEs play a crucial role in the Kazakh economy, spanning most of goods and services sectors. Quite often small and medium SOEs are incorporated in bigger joint stock companies (JSCs) and limited liability partnerships (LLPs). For example one of the biggest state companies, the Sovereign wealth fund "Samruk-Kazyna" had about 300 subsidiaries (around mid-2018).[6]

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[6]   https://primeminister.kz/en/news/all/v-i-polugodii-kolichestvo-dochernih-kompanii-ao-fnb-samruk-kazina-sokrashcheno-s-359-do-312-edinits

Figure 7. Medium-level component: Public Ownership
Index scale 0 to 6 from least to most restrictive, 2018
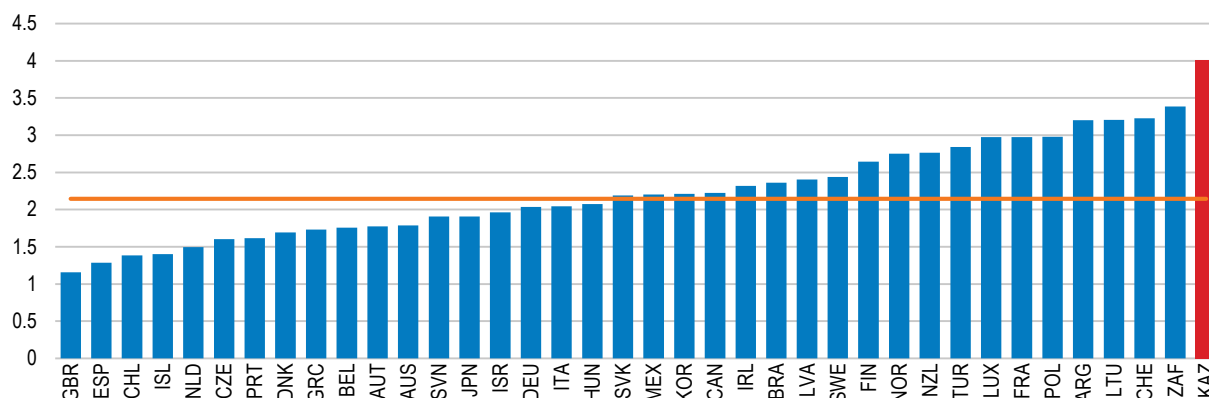
Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

4.2.2. *Involvement in business operations*

27.   In the area of ***State Involvement in Business Operations*** through command-and-control regulations, retail price controls, and the rules of public procurement, Kazakhstan comes out just above the OECD average (Figure 8).

28.   The value of the indicator of *Retail Price Controls and Regulation (*Figure 11, Panel A) is close to the OECD average and comparable to countries such as Finland, Switzerland and Brazil. Potentially competitive segments in most of the network sectors are open to competition, except for air transportation, where a limited number of operations is allowed. The government regulates or approves the retail tariffs in air transportation, electricity and gas sectors, as well as they regulate prices for staple goods, gasoline and liquefied petroleum gas.

29.   The indicator of *Command and Control Regulation* has a value for Kazakhstan that is below the OECD average (Figure 11, Panel B). Regulation is relatively flexible for most of the professional services analysed in the questionnaire, except for notaries. For example, there are territorial limitations for the practice of notaries and ownership rights for notary firms are quite restrictive. There is also some minor restrictions in the sectors of mobile e-communications as well as in air, coach and water freight transportation.

30.   The *Public Procurement* system scores worse in Kazakhstan than in OECD (Figure 11, Panel C) despite recent improvements of transparency in procurement procedures in the Procurement Law adopted at the end of 2015. For example, direct award procurement is still widely used in Kazakhstan instead of public procurement tenders especially for goods and services. More importantly, the facilitation of conditions for different types of bidders could improve the efficiency of procurement process.

31.   Table 3 below indicates the potential areas for improvement in the areas of SOE governance and the role of the state in the economy.

Figure 8. Medium-level component: Involvement in Business Operations
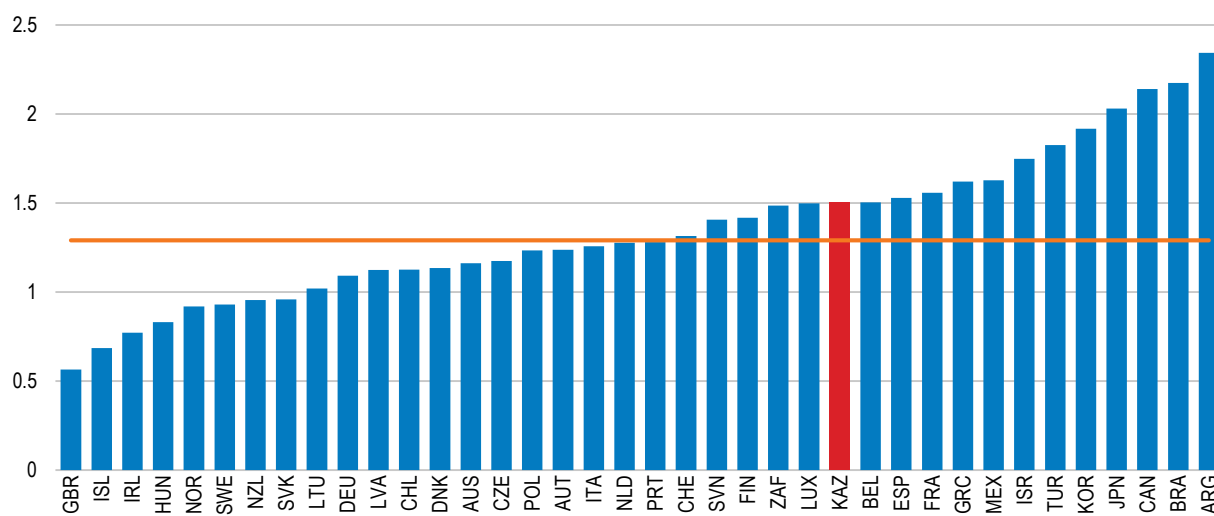
Index scale 0 to 6 from least to most restrictive, 2018

Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

Table 3. Potential areas for improvements in SOE governance and the role of the state in the economy

| Areas for improvement as derived from the OECD PMR indicators	
Scale down the presence of the state in the economy by:	Advancing with the privatisation plans laid out by the government. Reducing government involvement in the economy, especially in manufacturing and service sectors
	Facilitating the procedures for partial or entire SOEs sale by the state
	Re-evaluating the necessity of golden shares in privatised SOEs
Improve the governance of SOEs by:	Simplifying and clarifying the ownership structure of SOEs
	Ensuring the ownership and regulation of SOEs in separate public bodies. Ensuring arms-length regulation of SOEs. A common approach in OECD is a strong and independent competition authority and sectoral regulators
	Ensuring a level playing field for SOEs and private companies they compete (or potentially compete) with, e.g. vis a vis laws and regulations (i.e. competition law, procurement law).
	Reviewing and reconsidering state aid to SOEs. Removing implicit state guarantees to SOEs and improving transparency and tendering of universal service obligations. Making state aid rules and actions transparent
	Changing the procedures of appointing top management of SOEs to appointment by the board of directors and not by the government
	Facilitating the procedure of restructuring, bankruptcy and mergers of SOEs
	The adoption of the OECD Guidelines on Corporate Governance of SOEs could be an important step in improving the functioning of the SOEs
Improve public procurement by:	Using tenders as main method for public procurement of goods, services and public works
	Ensuring the time allocated for bidders is proportional to the size and complexity of the tender
	Reconsidering whether the contracting authority should continue to provide the reference price in the tender documentation for the goods, services or public works

Simplification and Evaluation of Regulations

32.   The score of the mid-level component ***Simplification and Evaluation of Regulations*** (Figure 9) is comparable in Kazakhstan to the values for other emerging-market economies, but significantly higher than the OECD average. One of the main reasons is relatively poor performance in the *Assessment of Impact on Competition* (Figure 12, Panel A). For instance, regulators do not have to include cost and benefit assessments when doing a Regulatory Impact Assessment (RIA) of new regulation on competition. Competition advocacy is performed by ministries and not by an independent public body. Furthermore, rulings identified during market study reading competition violations in existing laws and regulations are non-binding.

33.   *Interaction with Stakeholders* (Figure 12, Panel B), which focuses on transparency in lobbying and stakeholder engagement, is also relatively weak in Kazakhstan. Regulations of conduct between public officials and business associations, trade unions, NGOs and some other interested groups are not properly set up. Regulations concerning the conflict of interest for public officials does not exist and when civil servants leave the cabinet there is no official cooling off period after the period of service.

34.   Moreover, *Regulatory Procedures* in Kazakhstan remain complex in comparison with the OECD average. This is largely due to the absence of a national programme on costs and administrative burdens reduction according to the OECD best practices (Figure 12, Panel C).

Figure 9. Medium-level component: Simplification and Evaluation of Regulations

Index scale 0 to 6 from least to most restrictive, 2018
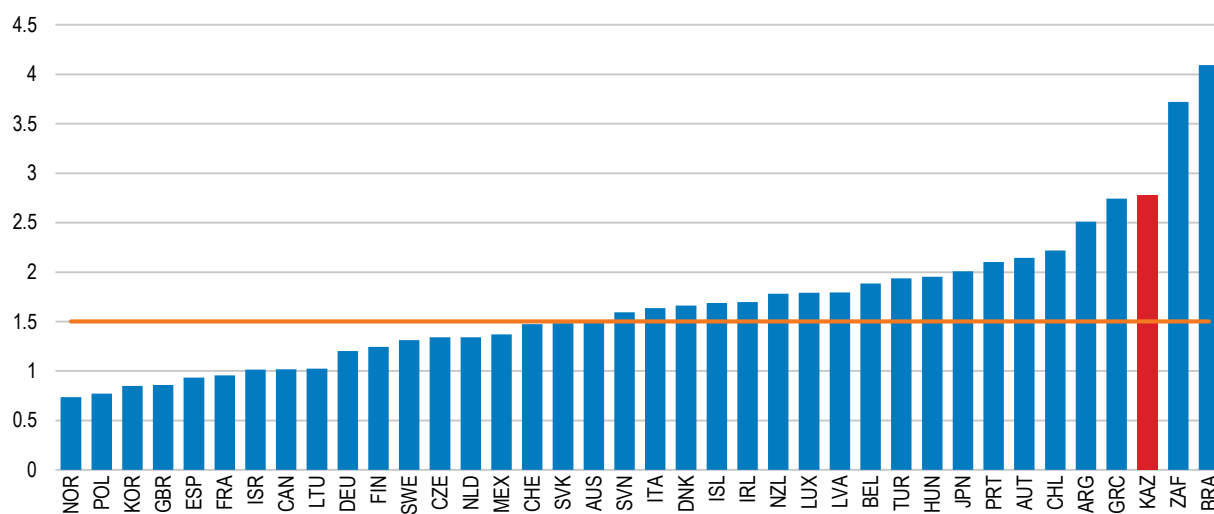
Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

Figure 10. Low-level components: Public Ownership

Index scale 0 to 6 from least to most restrictive, 2018

A. Scope of SOEs

B. Government Involvement in Network Sectors

C. Direct Control

D. Governance of SOEs

Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

Figure 11. Low-level components: Involvement in Business Operations
Index scale 0 to 6 from least to most restrictive, 2018

A. Retail Price Controls and Regulation

B. Command and control Regulation

C. Public procurement

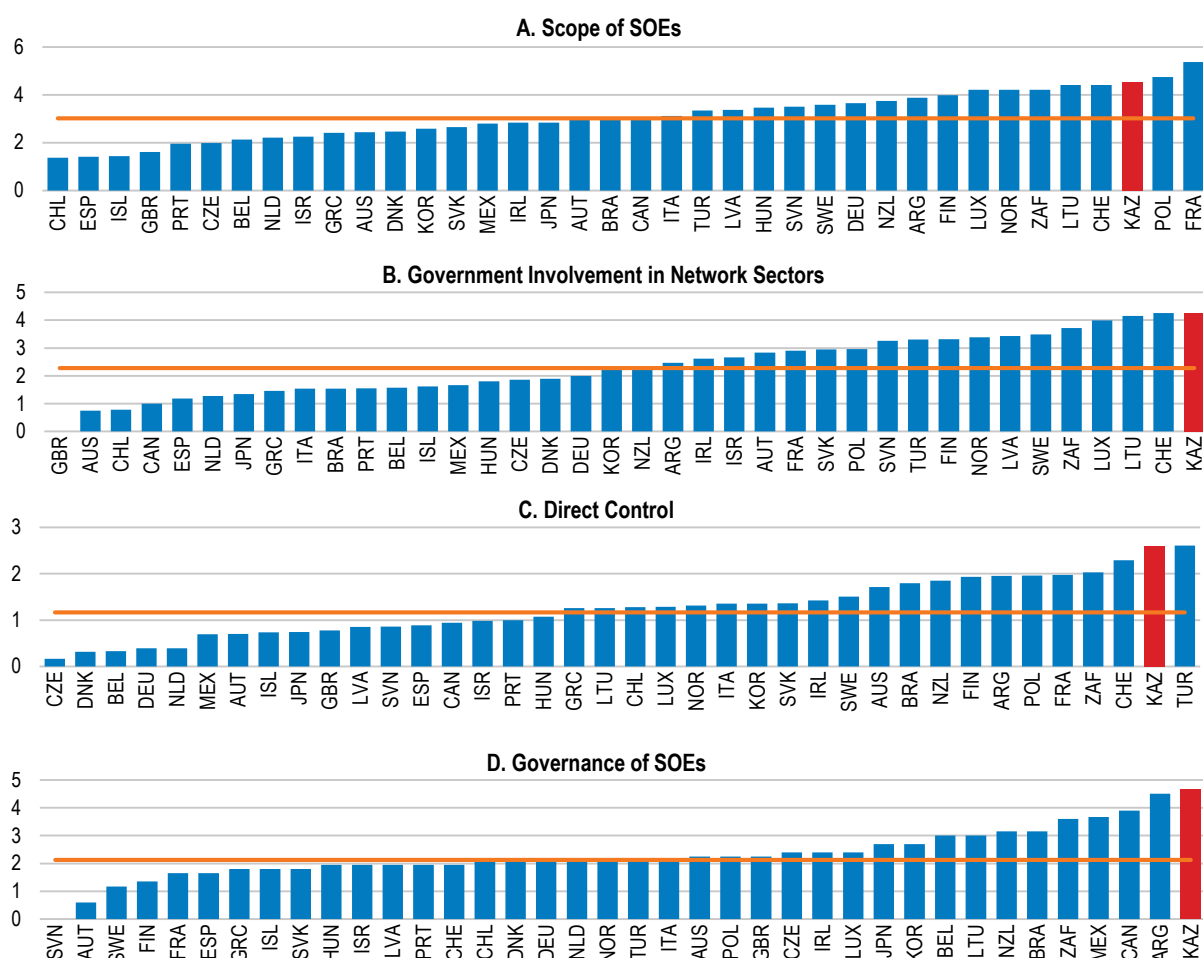*Source*: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

Figure 12. Low-level components: Simplification and Evaluation of Regulations
Index scale 0 to 6 from least to most restrictive, 2018

A. Assessment of Impact on Competition

B. Interaction with Stakeholders

C. Complexity of Regulatory Procedures

Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

4.3. Results for Barriers to Domestic and Foreign Entry

35.   ***Barriers to Domestic and Foreign Entry*** in Kazakhstan is slightly above the OECD average (Figure 13), largely due the high Barriers to Trade and Investment as well as important Barriers in Network Sectors. However, Administrative Burdens on Start-ups are relatively low in Kazakhstan in comparison with the OECD average.

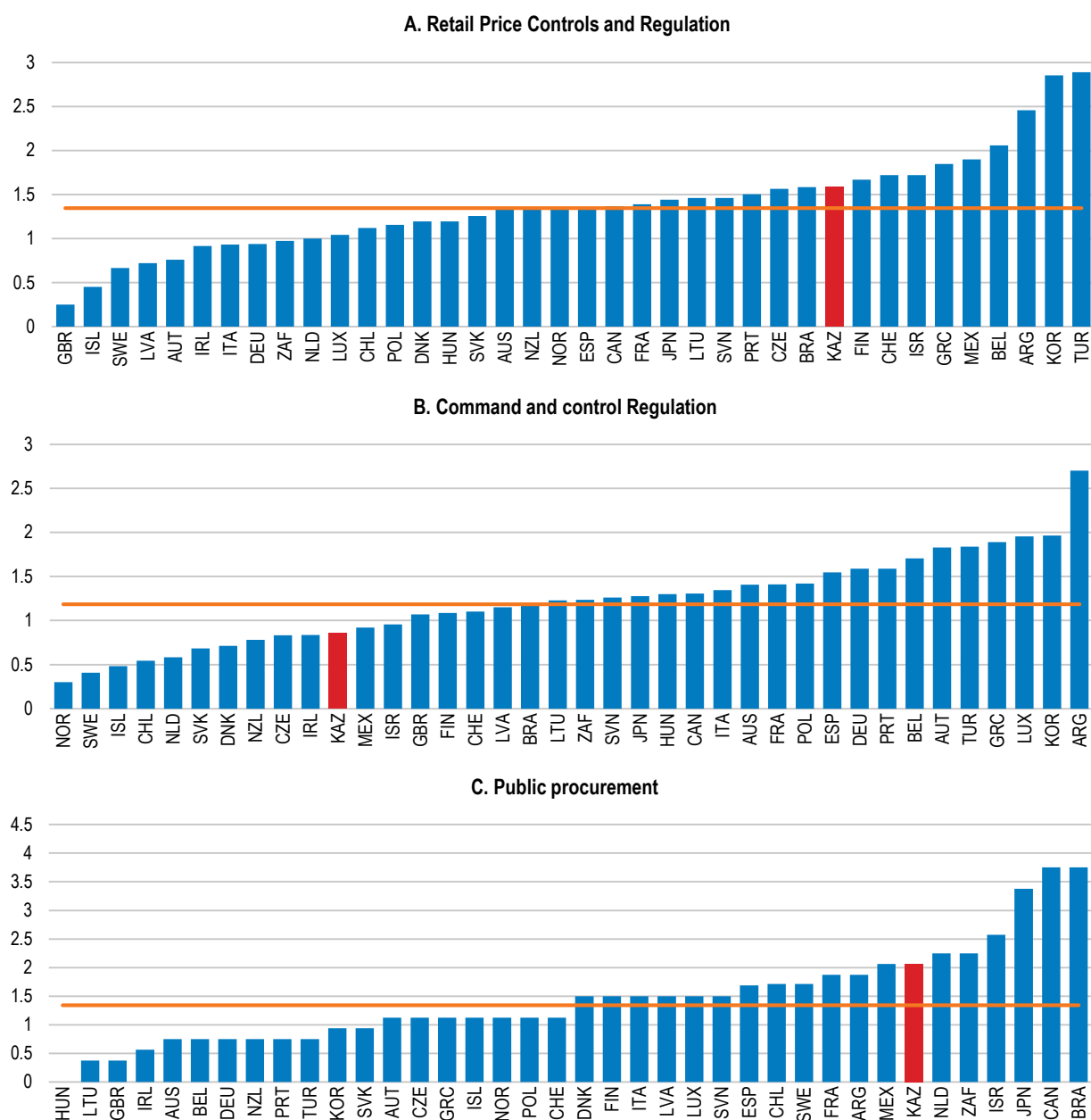**Figure 13. High-level component: Barriers to Domestic and Foreign Entry**

Index scale 0 to 6 from least to most restrictive, 2018
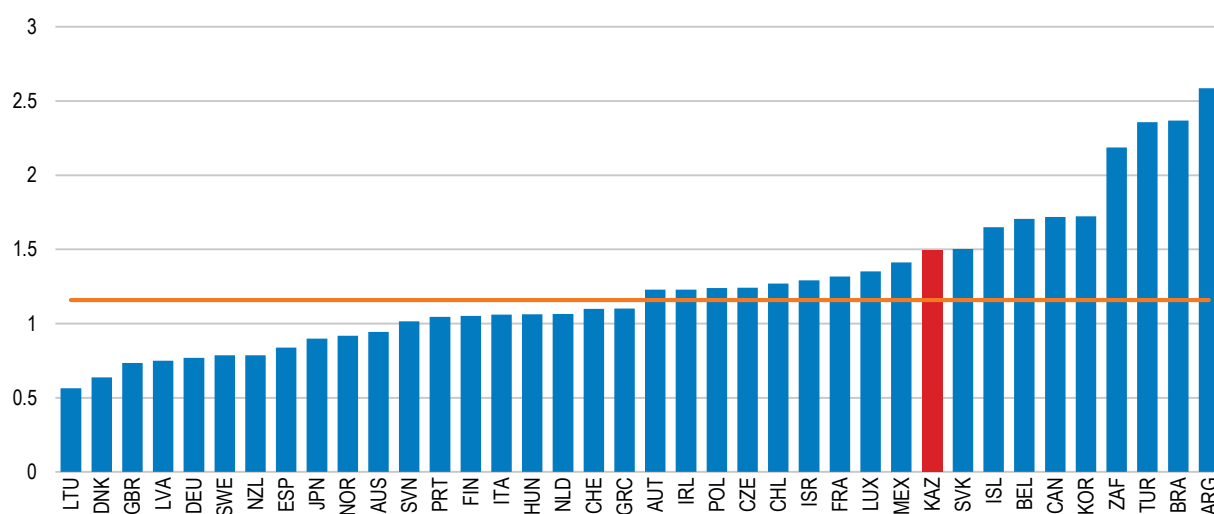
Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.
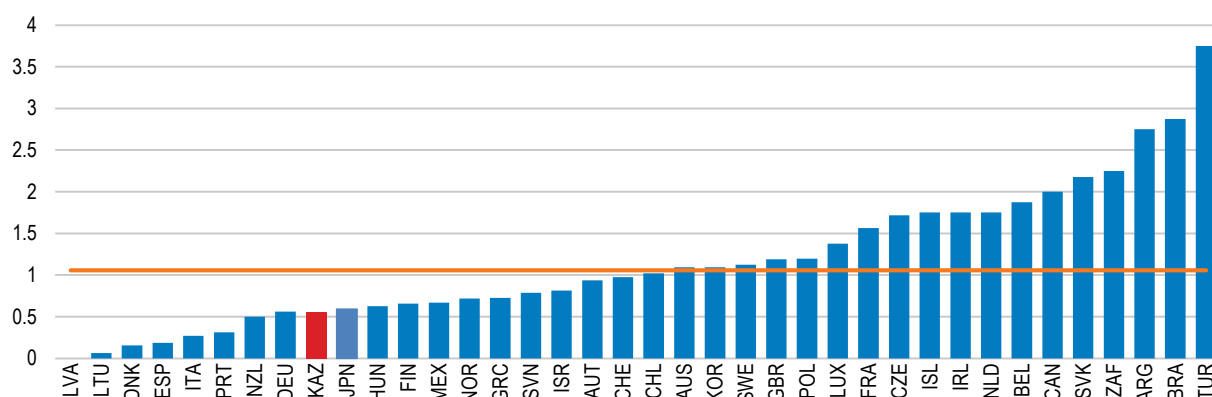
4.3.1. Administrative Burdens on Start-ups

36. In Kazakhstan ***Administrative Burdens on Start-ups*** (Figure 14) are low in an international comparison. This is in part reflecting the relative with which *Licenses and Permits* can be obtained (Figure 15, Panel B) even compared to the OECD average. According to questionnaire replies, one-stop shops are providing all the necessary information on the permits and licences that is necessary to open up a business. The "silence is consent" rule is also a standard procedure when opening a business.

37. *Administrative Burden for Joint-Stock Companies and Personally-Owned Enterprises* (Figure 15, Panel A) are among the lowest across OECD and non-OECD countries, further facilitating the administrative process of business creation. In order to open a limited liability company (LLC) the entrepreneur has to complete a number of steps (notify the VAT authorities, register with Commercial Court or the equivalent and prepare the dossier for registration), but most of this can be done online or through the one-stop shop.

38. In the case of personally owned enterprise (POE), procedures are even simpler in Kazakhstan. Since 2017 the registration process was simplified, the entrepreneur with staff and no limit to personal liability do not have to complete the registration procedures – the notification of the authorities on start of the activity is enough. The notification can be done online, which is the most popular option, but the entrepreneur may come to one of the physical one-stop shops in person. The cost of opening a LLC is about 15000 tenge (41 USD), whereas the creation of POE is free of charge. According to the World Bank, in 2018 the cost of opening a start-up in Kazakhstan was only to 0.3% of GNI per capita as compared with 3.7% of GNI per capita a high-income OECD country. The results above are consistent with the World Bank Doing Business, which ranks Kazakhstan on the 36th place on the global rank on the indicator of Starting a Business.

Figure 14. Medium-level component: Administrative Burden on Start-ups

Index scale 0 to 6 from least to most restrictive, 2018

Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

Figure 15. Low-level component: Administrative Burden on Start-ups

Index scale 0 to 6 from least to most restrictive

A. Admin. Burden for Joint-Stock Companies and Personally-Owned Enterprises

B. Licenses and Permits

Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

4.3.2. *Barriers in Service and Network Sectors*

39.   ***Barriers in Service and Network Sectors*** for Kazakhstan are slightly above the OECD average (Figure 16) however, the answer rate for this section was one of the lowest (about 90% for the low-level indicator of services barriers).

Figure 16. Medium-level component: Barriers in Service and Network Sectors
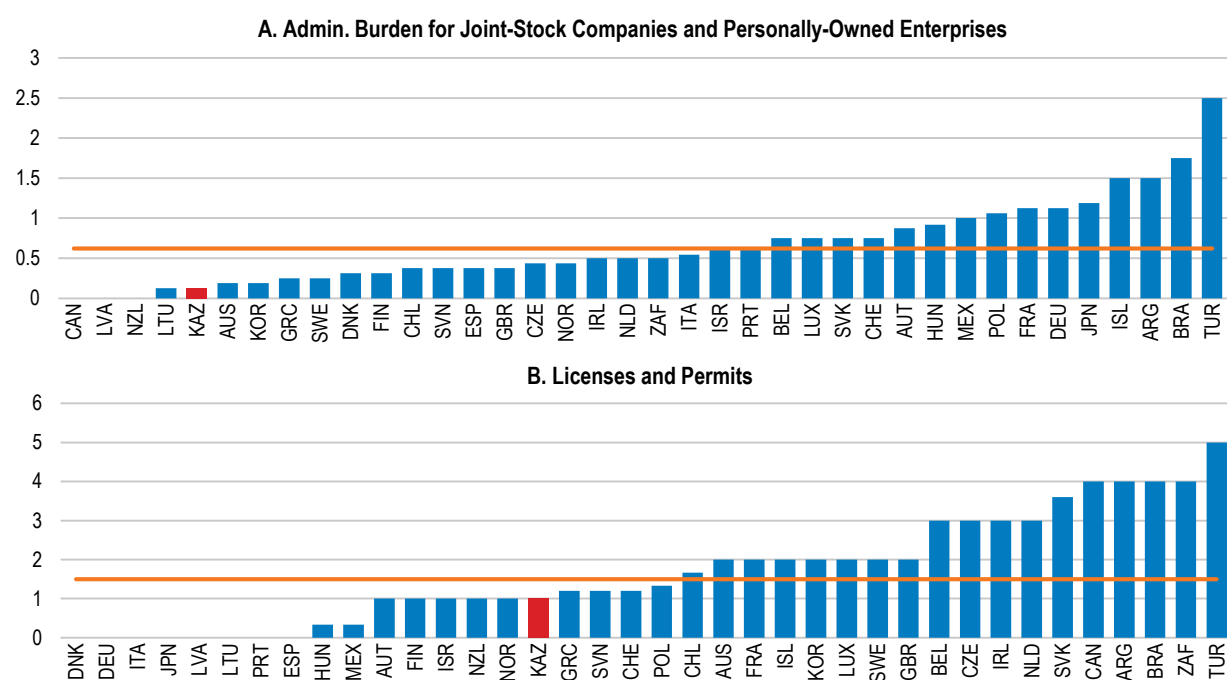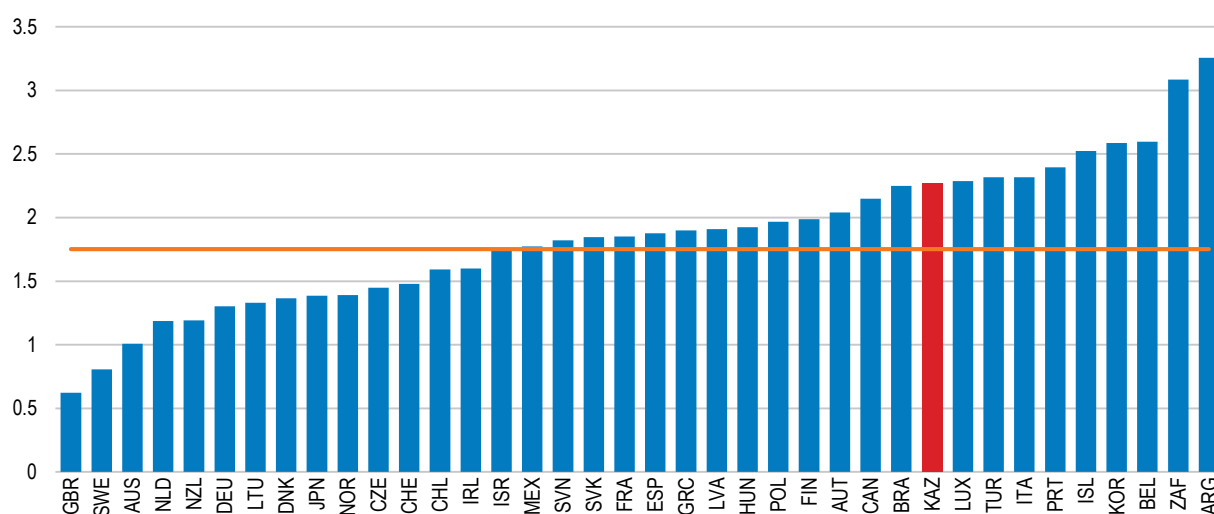
Index scale 0 to 6 from least to most restrictive, 2018

Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

40.   The score on the *Barriers in Service Sectors* (Figure 17, Panel A) is comparable to the OECD average, whereas the score on *Barriers in Network Sectors* (Figure 17, Panel B) is higher in Kazakhstan than in most OECD countries. As for services, pharmaceuticals is highly regulated, and Kazakhstan regulates relatively strictly the access to a number of professions (i.e. accountants and notaries). The most regulated network sectors include air transportation, electricity generation, retail supply and water resources. For example, there is no vertical separation of production and retail supply of electricity transmission. Similarly, there is no separation between gas storage and gas transmission. The next section provides more details on the results by major sector.

Figure 17. Low-level component: Barriers in Service & Network Sectors
Index scale 0 to 6 from least to most restrictive, 2018

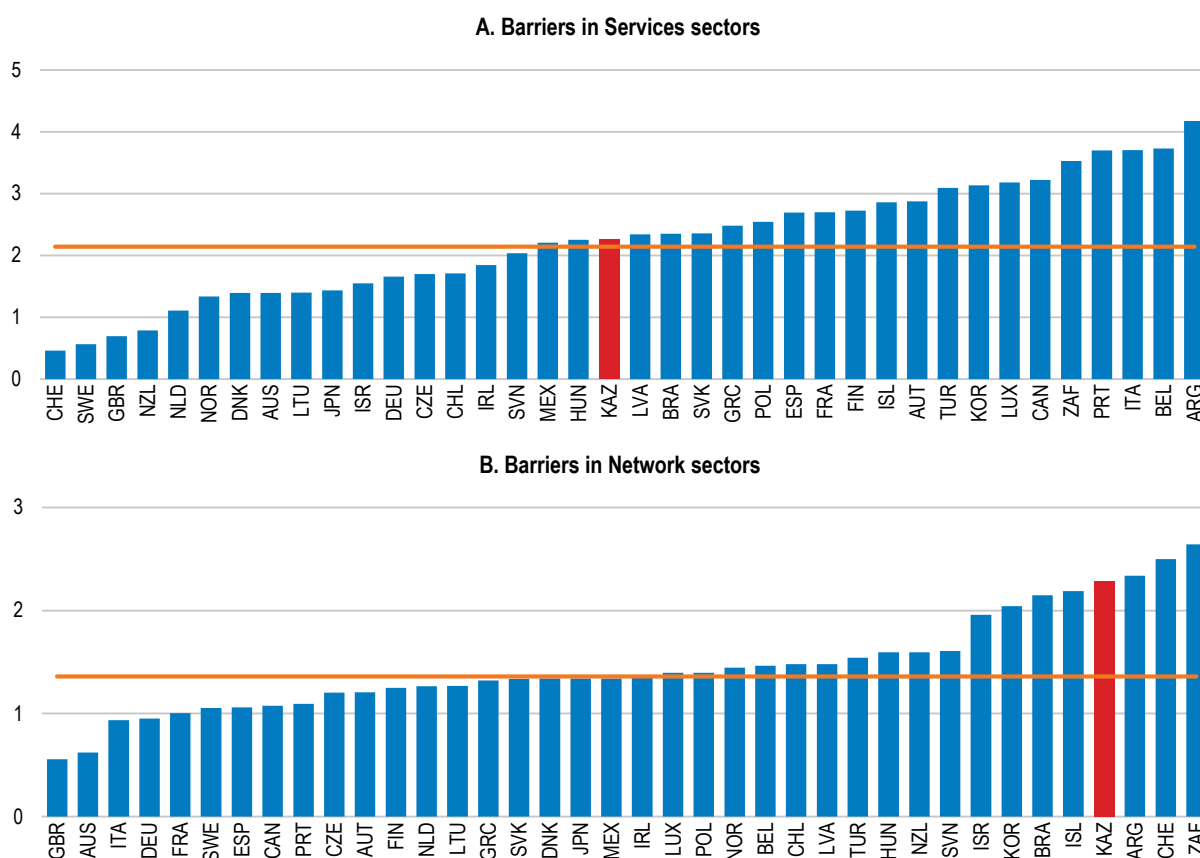**A. Barriers in Services sectors**

B. Barriers in Network sectors

Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

### 4.3.3. Results for the 2018 Sectoral PMR Indicators

41.   Network sectors, such as transport, energy and telecommunication, are the backbone of economic activity, and efficient provision of network related services and their accessibility can affect competitiveness, investment opportunities, technology diffusion as well as the quality of life of citizens (Calderon and Serven, 2014[13]). Reforms in the regulation of network sectors could increase the attractiveness of investment in those sectors, improve their functioning, pricing and productivity and have potentially large knock-on effects on downstream sectors (OECD, 2019[14]). Reducing entry barriers in professional services and facilitating the entrance of foreign specialists could have a positive effect on productivity and increase the share of highly-qualified immigrant workers attracted to the Kazakh labour market. The sectoral PMR questionnaire includes three indicators covering network sectors: Energy, Transport and E-communications; as well as one indicator for each Professional Services (with sub-indicators for lawyers, notaries, civil engineers, estate agents and architects) and Retail Trade.

42.   The sectoral indicator for *Electronic Communications* covers fixed and mobile telephony sectors. Regulatory barriers to competition are higher in Kazakhstan than in any other country covered in the report (Figure 18). The state controls at least one company in each sector, though both fixed and mobile markets are officially open for competition. In

fixed telephony, there is no assessment of the degree of market power held by the operations in any of the subsectors (i.e. wholesale leased lines provision, fixed call origination and termination services). Having such assessment is important to determine whether prices should be regulated or be set by market forces. The mobile services sector is less regulated than the fixed sector, but it has no mandatory provision on tariffs for roaming services.

Figure 18. Sectoral indicator: Regulation in E-communications (Fixed and Mobile)
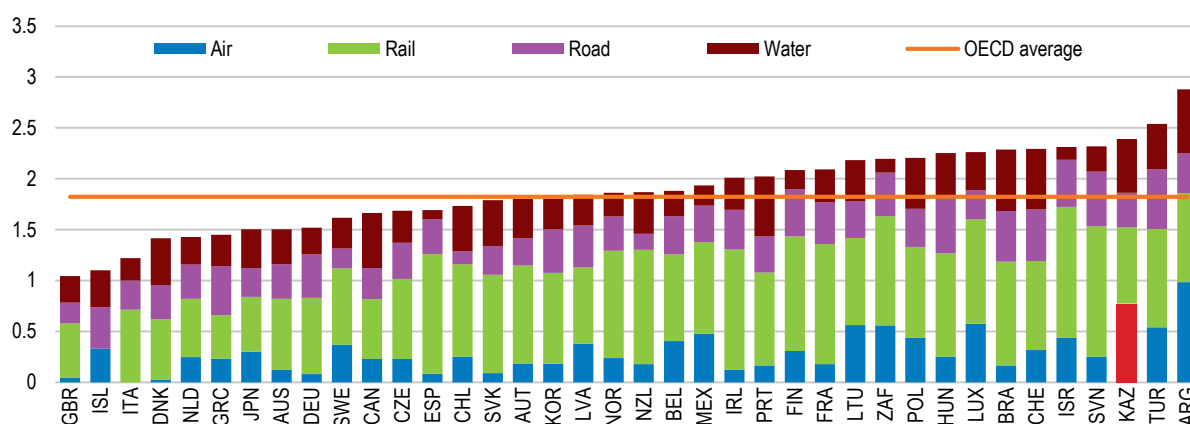Index scale 0 to 6 from least to most restrictive, 2018
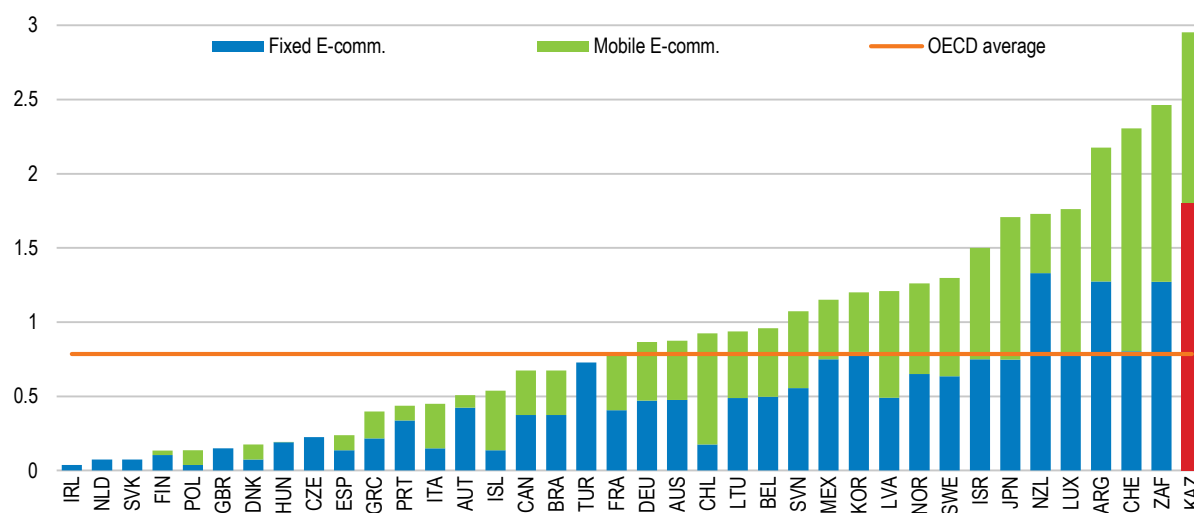
Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

43.   The ***Transport sector*** indicator includes four components: rail, air, road and water services and the value of the indicator is higher than the OECD average, but lower than in Turkey and Argentina (Figure 19). Air and water transport regulation are the main drivers of the high value of the overall indicator, whereas the scores for road and rail transport are relatively close to the OECD average. The state owns more than 50% of shares of the biggest company providing international passenger transportation (Air Astana) and 100% of Qazaq Air that is the biggest domestic company. The government regulates retail tariffs and the market is only open to a limited number of operators. Moreover, there are no open sky agreements between Kazakhstan and any other big country in the world and this hinders international cooperation in the sector. In the rail transport sector the biggest railway companies "KTG-passenger transportation", KTG-freight transportation" and KTZh" (railroads infrastructure) are fully owned by the state which complicates operation procedures in those companies (i.e. legislative impediments to sell the stakes in those companies).
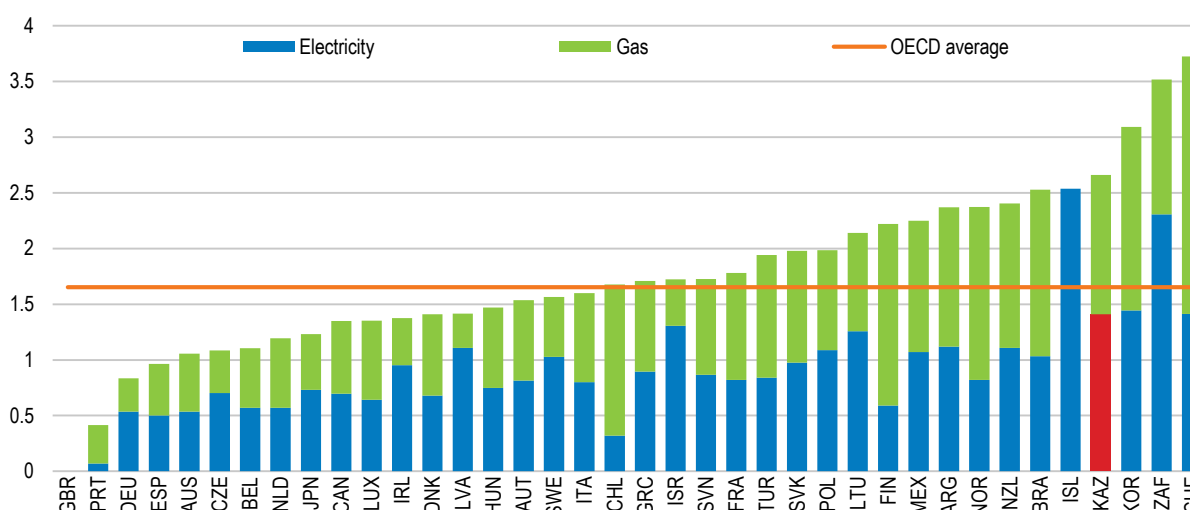
Figure 19. Sectoral indicator: Regulation in Transport sectors (Air, Rail, Road and Water)

Index scale 0 to 6 from least to most restrictive, 2018

Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

44.   In Both *Electricity and Gas sectors*, regulatory barriers to competition in Kazakhstan are higher than in most OECD and non-OECD countries (Figure 20). The high score for the electricity sector mostly comes from the limited degree of vertical separation across the segments of electricity sector as well as from the governmental control of the retail tariffs for all consumers. The presence of the state in this sector is also relatively important, contributing to the overall score.

Figure 20. Sectoral indicator: Regulation in Energy sectors (Electricity and Natural Gas)

Index scale 0 to 6 from least to most restrictive, 2018

Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

45.   Kazakhstan scores around the OECD average on the sectoral indicator on *Regulation in Retail Trade* (Figure 21). The registration and licensing of commercial activity is relatively easy. By contrast, the regulation for selling certain types of goods (i.e. gasoline, liquefied petroleum gas and pharmaceuticals) is relatively strict.

Figure 21. Sectoral indicator: Regulation in Retail Trade
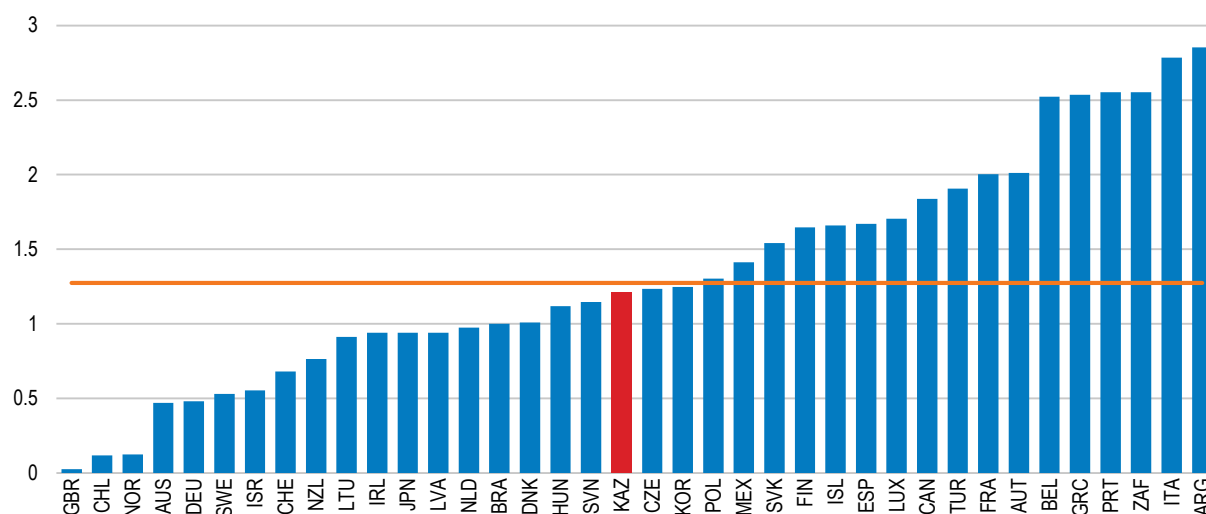Index scale 0 to 6 from least to most restrictive, 2018

Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

46.   Kazakhstan's score on the ***Professional Servicers Regulation*** indicator (Figure 22) is below the OECD average and similar to a number of advanced economies such as Lithuania and Israel.

47.   The levels of regulation for lawyers, notaries (Figure 23, Panels A and B), civil engineers and architects (Figure 24, Panels B and C) are close to that of the OECD average. The main obstacles for these professions are in terms of occupational licensing and entry barriers. At the same time, accountants are relatively highly regulated at both the state level by the Ministry of Finance and through professional auditing and accounting organisations. Another source of regulation for accountants comes from the limited pathways to obtain the license, entry barriers to foreign nationals and required membership in the professional body (Figure 24, Panel A). Last, access to the real estate agents profession is largely unrestricted, putting Kazakhstan at the same level as the United States, Netherlands and some other OECD countries (Figure 23, Panel C).

48.   Table 4 below indicates the potential areas for improvement in network sector regulation.

Table 4. Potential areas for improvement in network sector regulation

	Areas for improvement as derived from the OECD PMR indicators
Ease entry regulation by:	Introducing regulated third party access to electricity transmission grid and distribution network
	Replacing the obligation of getting the license to establish a national road freight business by simple notification of relevant authorities.
	Conducting and making public the evaluations of market power held by the fixed and mobile telephony operators
Improve effectiveness of regulation by:	Strengthening the independence of regulators, for example by moving them outside government ministries.
Achieve better retail price regulation by:	Basing the regulated retail tariff for electricity and gas on the tariffs or cost of the most efficient supplier
	As competition improves, moving from the system where the electricity and gas retail tariffs are regulated by the government to the only for vulnerable consumers or not regulated at all
	Considering liberalising the retail tariffs charged by domestic air carriers. Identifying routes, services or consumers eligible for universal/public service obligation and design a transparent, competitive pricing mechanism for pricing them.
	Introducing an independent regulatory ex-ante or ex-post supervision in the airports on the level of their charges or revenues.
	Legally requiring the mobile operators to provide appropriate and timely information about billing of roaming services to their customers
Strengthen vertical separation by:	Progressively moving to stronger separation of activities in the various segments of the electricity, gas and water transport sectors
Facilitate entry of foreign suppliers by:	Reducing the barriers to foreign entry in air transportation
	Liner-conferences (private arrangements between shipping lines to utilise common rates) in the water freight transport sector should not be exempt from the application of antitrust rules.

Figure 22. Sectoral indicator: Regulation in Professional Services
Index scale 0 to 6 from least to most restrictive, 2018
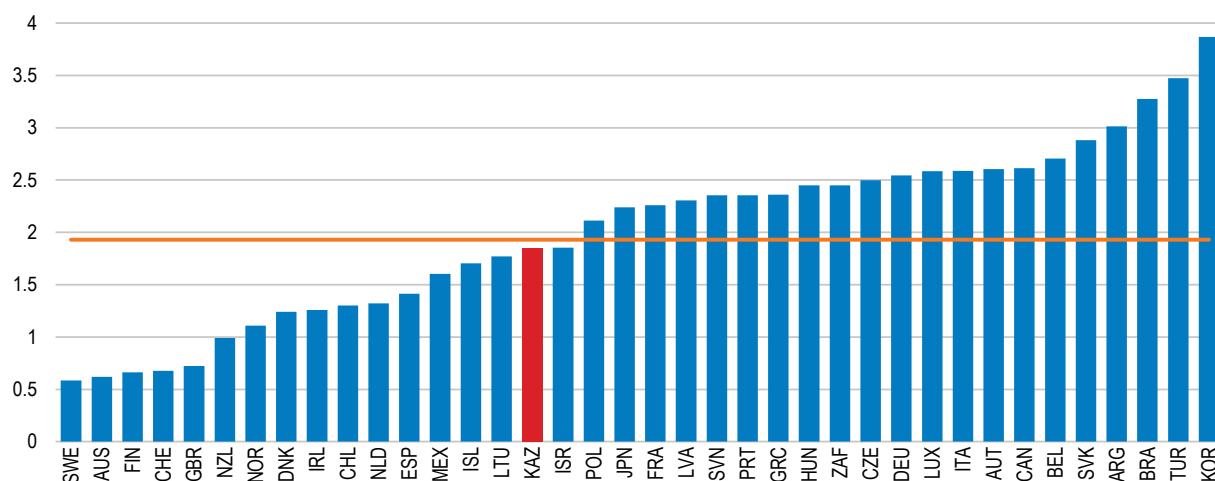
*Note:* Care should be taken when comparing the PMR indicators on individual professions across countries, because the activities that a specific profession undertakes may vary between countries. The PMR database provides a detailed indication of the activities performed by each profession in each country.

Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

Figure 23. Sectoral indicator: Regulation in Professional Services

Index scale 0 to 6 from least to most restrictive, 2018

A. Lawyers

B. Notaries

C. Accountants
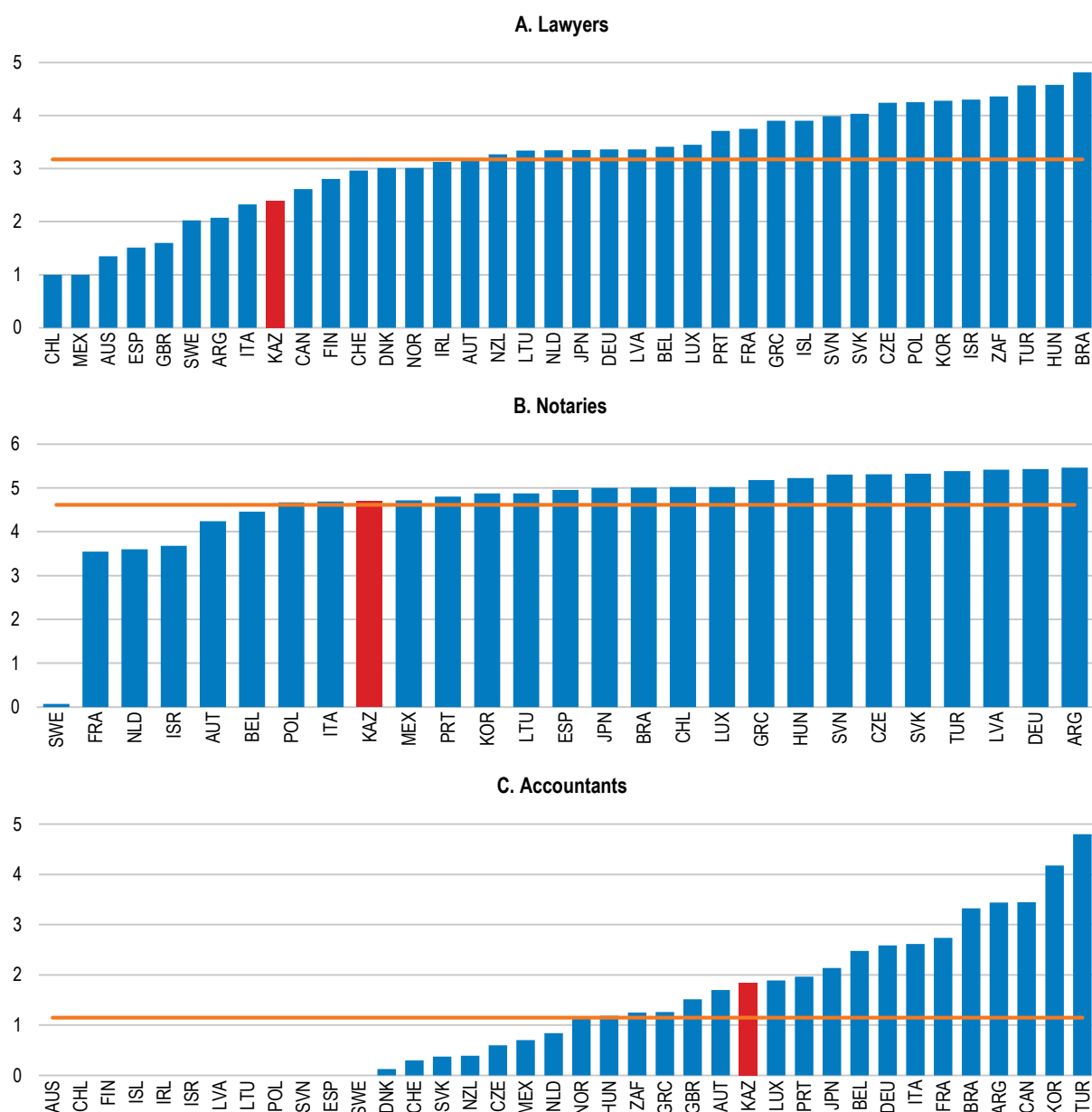
Notes: 1. In some countries, notaries do not exist as an independent profession. For this reason there are values missing for this profession for some countries. 2. It should be added that in civil law countries, notaries exercise administrative and judicial tasks by virtue of power delegated by the state; hence, they play a special role in the legal services market in the concerned countries and in this aspect, they are different from the other professions included in the OECD's PMR indicator.

Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

Figure 24. Sectoral indicator: Regulation in Professional Services

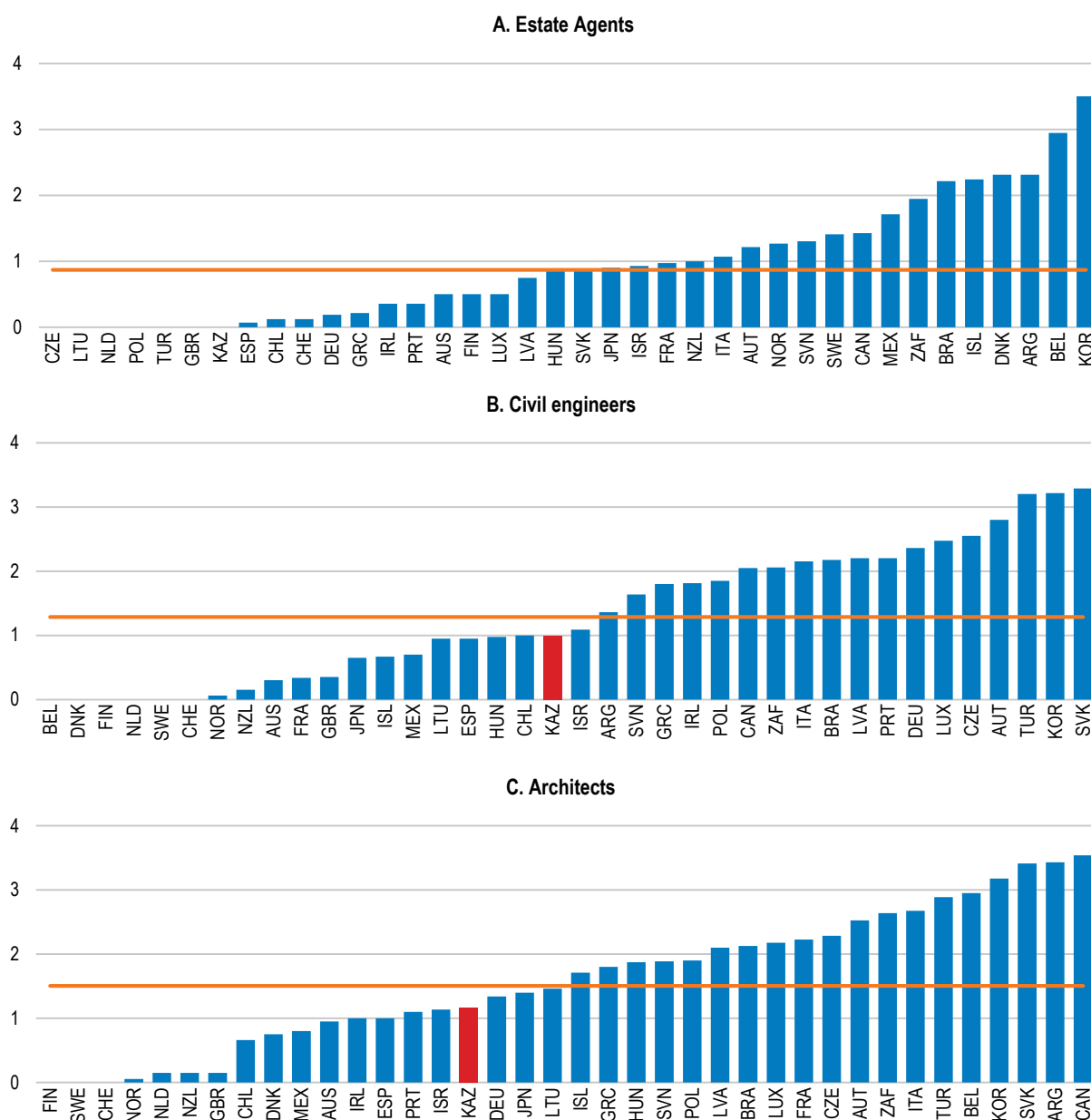Index scale 0 to 6 from least to most restrictive, 2018

A. Estate Agents

B. Civil engineers

C. Architects

Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

4.3.4. Barriers to Trade and Investment

49.   ***Barriers to Trade and Investment*** in Kazakhstan are higher than the OECD average (Figure 25), but are comparable to countries such as Korea, Israel and Mexico. The low-level indicator *Barriers to FDI*, which corresponds to the OECD FDI restrictiveness index is higher for Kazakhstan than for many OECD countries except for a number of mostly resource rich countries (i.e. Australia, Canada and Mexico) (Figure 26, Panel A). In the last five years Kazakhstan has considerably eased FDI regulations mainly due to its accession to the WTO in 2015. The *Tariff Barriers* indicator, which includes information

on effectively applied tariffs in a number of sectors, is higher in Kazakhstan than in most OECD countries (Figure 26, Panel B).

50.   *Treatment of Foreign Suppliers* (Figure 19, Panel C) is high for Kazakhstan, with limited public procurement openness to foreign companies and access of foreign specialists for almost all examined professions (no Mutual Recognition Agreements with other countries). *Barriers to trade facilitation* (Figure 19, Panel D) are based on the OECD Trade Facilitation Indicators, and are also high for Kazakhstan in comparison with the OECD countries, with burdensome procedures, low automation and poor information availability.

51.   Table 5 below indicates the potential areas for improvement of the barriers to trade and investment.

Figure 25. Medium-level component: Barriers to Trade and Investment
Index scale 0 to 6 from least to most restrictive, 2018
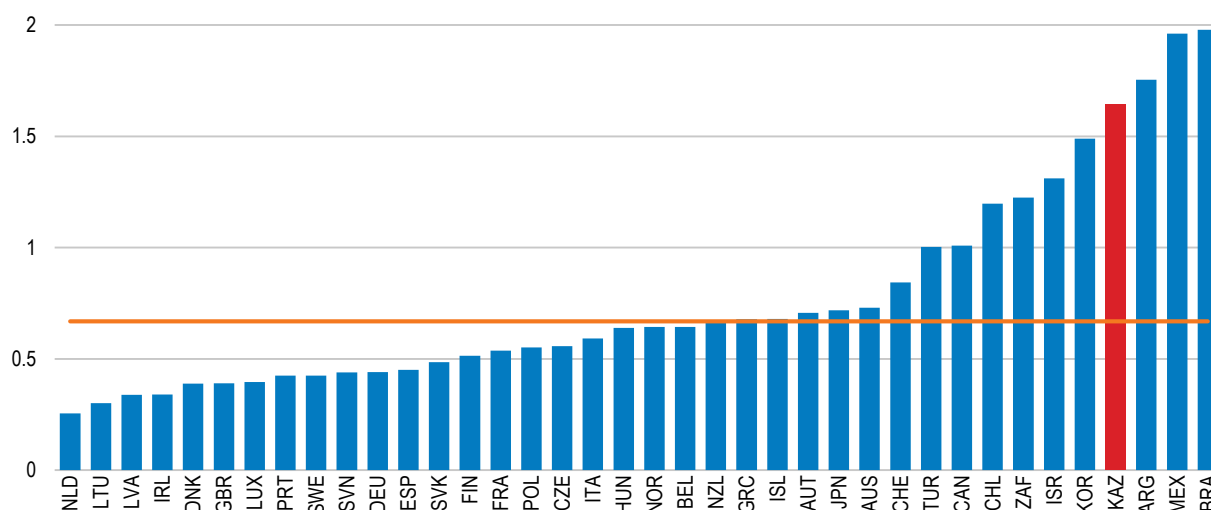
Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

Figure 26. Low-level component: Barriers to Trade and Investment

Index scale 0 to 6 from least to most restrictive, 2018

A. Barriers to FDI

B. Tariff Barriers

C. Differential Treatment of Foreign Suppliers

D. Barriers to Trade Facilitation
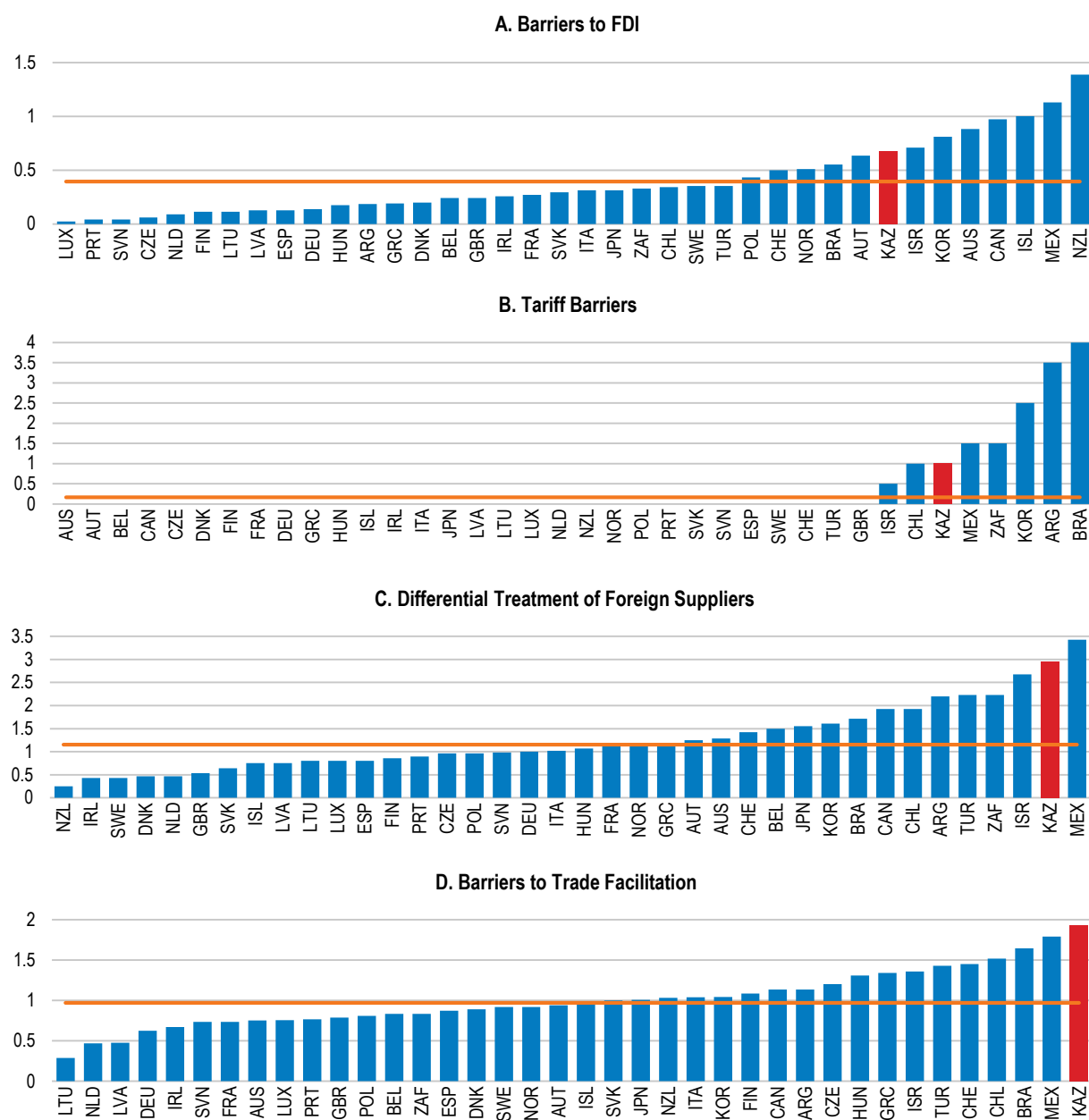
Source: OECD, Product Market Regulation Database; OECD-World Bank Group Database for Argentina.

Table 5. Potential areas for improvement of the barriers to trade and investment

	Areas for improvement as derived from the OECD PMR indicators
Reduce differential treatment of foreign suppliers by:	Reducing the barriers to foreign entry (i.e in air transportation, mining, professional services and public procurement)
Ease barriers to trade facilitation by:	Improving the availability of information on the agreement with the other countries as well as the information on procedural rules for appeal
	Reducing the number of documents necessary for import and export and the time necessary for its preparation.
	Improving the share of import and export declarations cleared electronically as well as enabling the availability of full-time automated processing for Customs
	Simplifying trade procedures in terms of time, cost and improving availability and flexibility of Single Window and Customs

5. Results for the insolvency regimes indicator

52.   The economy-wide PMR indicator mostly covers the barriers to entry in goods and services markets An additional indicator on the OECD insolvency regimes, covers policies which – based on international experience and research – may carry adverse consequences for productivity growth by delaying the initiation and increasing the length of insolvency proceedings (OECD, 2018[15]).

53.   A number of OECD studies highlight the importance of well-functioning insolvency regimes as one of the measures of labour and capital reallocation from low to high productivity businesses (OECD, 2018[15]). OECD insolvency indicator gives the opportunity to compare the efficiency of insolvency regimes performance and define country-specific policy recommendations. Based on the information collected via the OECD questionnaire, Kazakhstan has one of the lowest scores compared to OECD countries (Figure 27).

54.   This is largely due to the law "On Rehabilitation and Bankruptcy" that came into force in 2014 and improved the responsibility of management and shareholders for wrongdoings, limited the rights of affiliated creditors and divided priority line for penalties and indemnities. It also included the rehabilitation procedure that gave an opportunity to a firm to restructure its debts with court protection (Cleary Gottlieb, 2016[16]). The amendment to this law approved in November 2018 mostly concentrated on the acceleration of the rehabilitation and bankruptcy procedures and facilitation of inactive debtors' liquidation. The 2014 Bankruptcy law legislation seems to bear fruit: the number of bankrupt firms increased from about 400 in 2014 to more than 3000 at the end of 2017[7].

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[7] Data from the State Revenue Committee, Ministry of Finance of the Republic of Kazakhstan: http://kgd.gov.kz/ru/section/reabilitaciya-i-bankrotstvo.

Figure 27. Composite indicator of insolvency regimes

Scale of 0 to 1 from least to most stringent
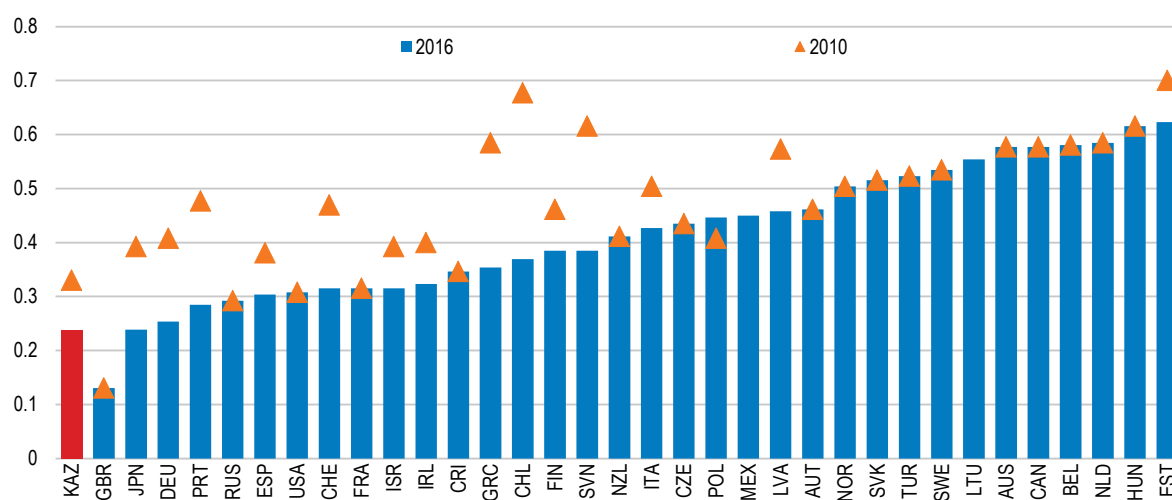
Source: Adalet-McGowan, A. and D. Andrews (2018), "Design of Insolvency Regimes across Countries", OECD Economics Department Working Papers No 1504 and authors' calculations.

55.   The World Bank Resolving Insolvency index puts Kazakhstan at 37th place that is a bit lower than OECD high income average (26th place), but way higher than China (61st) and Russian Federation (55th).

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