

Unofficial translation

## CHAPTER ONE

### GENERAL PROVISIONS

#### Article 1 Purpose of the law

1.1. The purpose of the law is to regulate legal grounds for judiciary system, organization, mandate, operation and guarantees of judiciary power.

#### Article 2 Legislation on judiciary

2.1. The legislation on judiciary shall consist of the Constitution of Mongolia, this law, the Law on Legal Status of Judges, Laws on the Court administration, other laws on legal status, organization and other procedures of courts enacted in conformity with the aforementioned laws.

#### Article 3 Definitions of terms

3.1 The terms set forth in this Law shall bear the following meanings;

3.1.1. "Court" means all the courts established in accordance with the Constitution and this law to adjudicate administrative and criminal cases, civil disputes and it's judges, judges composition to render rulings on behalf of Mongolia.

3.1.2. "Specialized court" means courts established on specific areas of cases, disputes such as criminal, civil and administrative matters.

#### Article 4 Mission of the judiciary

4.1. The mission of the Mongolian judiciary shall consist of the following:

4.1.1 to protect human rights and freedom, reinstate violated rights

4.1.2 to protect the independence and sovereignty of the country, state institution vested in the Constitution

4.1.3 to promote rule of law, democracy and justice

4.1.4 to prevent crime and offences, maintain social order, advance legal awareness of citizens through adjudicating criminal, administrative and civil matters / hereinafter referred as "case, dispute/.

4.1.5 to ensure the principle of presumption of innocence

### CHAPTER TWO. THE PRINCIPLES OF JUDICIARY PERFORMANCE

#### Article 5 Integrity of the judicial system

5.1. The judicial system shall be integrated and courts shall be independent in the organizational structure

5.2. The integrated system of the judiciary shall be ensured by the Mongolian Constitution /hereinafter referred as a "Constitution"/ and this law regulating judicial system and organization.

5.3. In Mongolia the judicial power shall be vested exclusively in courts, established solely under the Constitution and this law.

5.4 The activity and rulings of any courts shall not be outside the supervision of the Supreme Court.

#### Article 6 Independence of the Judiciary

6.1 The Judiciary shall be independent from the legislature and executive and shall be impartial from any entity and individuals.

6.2. It is prohibited to adopt any law or legal act that would threaten or eliminate the independence of the judiciary in Mongolia.

6.3 The Chief judge of any court shall not interfere with the exercise of judicial authority by any judge, by the issuance of directives, guidelines, the assignment of a case to a particular judge, or in any other manner.

6.4 The Judiciary shall be financially independent and the government shall ensure its continuous operation by adequate financial support.

6.5 The Judiciary shall be administered by the General Council of Courts and court secretariat. Court administration shall be regulated by the law on Court Administration.

6.6 The Judiciary shall have specialized staff with duty to assist the judiciary. The status of specialized judiciary staff shall be regulated by the Law on Court Administration.

6.7 Each court shall have an adequate number of judges.

6.8. Each court shall have its symbol and seal with court's name /number/.

Article 7 Judiciary is subject to the rule of law

7.1. The rule of law is the fundamental principle of organization and proceedings of judiciary.

7.2. Court proceedings shall be regulated only by law.

7.3. The court shall only apply laws and international treaties entered into force and published officially.

7.4. In the event that the court deems an applicable law or international treaty to be incompatible with the Constitution, it shall suspend the court proceedings and request that the Supreme Court address the issue.

Article 8 Openness, transparency of judiciary

8.1. Judiciary operation shall be open and transparent.

8.2. Unless otherwise provided by law, all court proceedings shall be conducted in public.

8.3 The General Council of Courts shall approve official standards for court room to ensure that public court proceedings are conducted in suitable facilities.

8.4. In collegial hearings, the court of first instance shall require representatives of citizens to participate to ensure transparency, justice, public monitoring pursuant to the Law. The legal status of representatives of citizens shall be regulated by the law.

8.5 Court proceedings shall be recorded by audio and visual recording and the recording shall be maintained in an archive.

8.6 Each court shall have its own website to post activity and rulings on a regular basis.

8.6 Courts shall inform public on court proceedings through media outlets except information about individual privacy, secrets of state, and legal entities protected by law.

Article 9 Adversarial Principle

9.1. Court hearings shall be conducted on the basis of the adversarial principle.

9.2. Courts shall provide equal opportunities to all the parties, including the defendant, lawyer, legal representative, prosecutor and others to exercise the adversarial principle to question, respond, introduce evidence, comment or oppose.

9.3 Adversarial proceeding in court hearing shall be regulated by the relevant procedural codes.

### CHAPTER THREE. COURT OF MONGOLIA

Article 10 Judicial system of Mongolia

10.1. The primary system of judiciary in Mongolia shall consist of the Supreme court, aimag, capital city court / hereinafter referred as "appellate court"/, soum, intersoum court, district court / hereinafter referred as a " first instance court"/.

10.2. Courts, with the exception of the Supreme Court, shall be established to specialize on types of cases such as criminal, civil and administrative matters, with a jurisdiction over several administrative units upon consideration of the size of territory and population and caseload.

Article 11 Establishment and dissolution of court

11.1. Courts shall be established, changed and dissolved only in accordance with the Constitution and this law.

11.2. The Supreme Court of Mongolia shall be established and dissolved in accordance with the

Constitution.

11.3. The President of Mongolia / hereinafter referred as "President"/ shall submit a proposal by the General Council of Courts to the State Great Hural on the establishment, modification and dissolution of a court at upon consultation with the Government of Mongolia.

Article 12 Court composition

12.1. Courts of each instances shall be composed of a chief judge and judges.

12.2. The chief judge shall head the respective court.

12.3 The President shall appoint a chief judge of the Supreme Court for a term of six years pursuant to the Constitution and the Law on Legal Status of Judges.

12.4. The President shall appoint the chief of the chamber of the Supreme Court and the chief justice of courts except the Supreme court for a term of three years, which can be extended for another term.

12.5 The power of the chief judge and chief of the court chamber shall be regulated by this law. The general power of the judges shall be regulated by the Law on Legal Status of Judges. Court proceedings shall be regulated by respective procedural codes.

12.6 In the absence of the chief judge of the Supreme court, a chief of the chamber with the longest judiciary experience shall act as a chief judge. In the absence of the chief judge of a regular court, the judge with longest judiciary experience shall be acting.

Article 13 Power of chief judges

13.1. The chief judge of a court shall exercise the following powers;

13.1.1.to represent the court in domestic and foreign relations;

13.1.2. to announce, organize and convene the panel of judges, and organise enforcement of decision of the panel;

13.1.3.to chair court hearing, to appoint a chair and other judges, to supervise operation of chamber of the court ;

13.1.4. to organize meetings with citizens in pursuant to relevant law ;

13.1.5. to review written petitions and requests from citizens and legal entities;

13.2. The chief judge shall issue a directive on the exercise of powers granted to the position of the chief judge.

Article 14 Power of chief of the court chamber

14.1. The chief of the court chamber shall exercise following powers;

14.1.1 to head the chamber, to supervise the judges of the chamber and court secretary;

14.1.2 to review written petitions and requests from citizen and entities within the power of the chamber;

14.1.3 to chair a court hearing in accordance with law ;

14.1.4 to exercise power stipulated in article 10.2 of the Law on Legal Status of Judges.

14.2. The chief of the chamber shall issue a directive on the exercise of powers granted to the position.

#### CHAPTER FOUR. THE SUPREME COURT

Article 15 The Supreme Court

15.1. The Supreme Court is the highest judicial organ and final appellate court in Mongolia.

15.2. The Supreme Court shall have specialized chambers on criminal, civil and administrative matters.

Article 16 Composition of the Supreme Court

16.1. The Supreme Court shall be composed of the Chief judge and 16 judges at a minimum.

16.2. Judges of the Supreme court shall affiliate with one of the chambers stipulated in article 15.2. A judge is prohibited to take part in a court hearing other than a hearing for the chamber with which he or she is affiliated.

#### Article 17 Power of the Supreme Court

17.1. The Supreme Court shall have power to hear a final instance case upon a motion of a party or notice of appeal by the Prosecutor- General on the basis of a dispute over rulings of the appellate court on criminal, civil and administrative matters.

17.2. The ruling of the Supreme court shall be final.

17.3 The Supreme Court shall exercise the following powers in addition to the powers stipulated in article 17.1;

17.3.1. Issue official interpretations for the proper application of laws except the Constitution through hearing particular cases, disputes and to publish it regularly;

17.3.2. to submit recommendation to the legislature to improve legislation on the basis of court rulings and practice;

17.3.3. to establish the chamber of the court in pursuant to article 19.4

17.3.4. to nominate a candidate for the appointment to the Constitutional Court, National Human Rights Commission and the General Election Committee;

17.3.5. to review matters concerning protection of rule of law and human rights referred by the Constitutional Court, the Prosecutor- General and the Human Rights Commission;

17.3.6 to submit a request to the Constitutional Court if the court deems it necessary pursuant to the article 17.4;

17.3.7 Other powers defined in the laws

#### Article 18 Power of the Chief Justice of the Supreme Court

18.1. The Chief Justice of the Supreme Court shall exercise the following powers in addition to power provided in article 13;

18.1.1. to supervise the performance of chief of the chambers;

18.1.2. to review disputes over jurisdiction between courts and chambers;

18.1.3. to exercise power set forth in article 10.2 of the law on Legal Status of Judges. The chief judge shall preside in court hearings of any chamber of the Supreme court.

### CHAPTER FIVE. APPELLATE COURT

#### Article 19 Appellate court

19.1 The appellate court shall hear appeal cases, disputes upon motion by a party or notice of appeal of the prosecutor on the rulings of the first instance court.

19.2. The appellate court shall be established in accordance with the specialized areas of trial as below;

19.2.1. Aimag, capital city appellate court for civil cases

19.2.2. Aimag, capital city appellate court for criminal cases

19.2.3. Appellate court for administrative cases

19.3. The appellate court shall be systematically numbered and have an address ' \_\_\_th Aimag, capital city appellate court' which shall be referred to as the court's legal, official address.

19.4 The appellate court may have chambers defined in article 22.4.

#### Article 20 Power of appellate court

20.1. The appellate court shall exercise following power in addition to the power stipulated in the article 13.1;

- 20.1.1. to hear first instance cases pursuant to the law;
- 20.1.2. to submit recommendation to the Supreme court to improve legislation based on appellate hearing practice;
- 20.1.3. other power afforded by law.

#### Article 21 Power of the Chief Justice of the appellate court

- 21.1. The Chief Justice of the appellate court shall exercise the following powers in addition to the power stipulated in article 13.1;
  - 21.1.1. to exercise power defined in article 10.2 of the law on legal status of judges.
  - 21.1.2. to appoint a chair of the court hearing on a quarterly or semi-annual basis and to appoint judges to hear a specific case pursuant to article 20.1.1
  - 21.1.3. to review jurisdiction dispute between first instance courts
  - 21.1.4. other power afforded by law

### CHAPTER SIX. FIRST INSTANCE COURT

#### Article 22 The first instance court

22.1. The first instance court shall hear criminal, civil and administrative cases in a first instance hearing with the jurisdiction that is defined by law.

- 22.2. The first instance court shall consist of the following;
  - 22.2.1. the district first instance court for civil cases
  - 22.2.2. the district first instance court for criminal cases
  - 22.2.3. the first instance court for administrative cases
  - 22.2.4. the soum and intersoum court

22.3. The soum and intersoum court may be established with a specialization on particular area of trial.

22.4 The first instance court may have specialized chambers on types of trial such as family, labor dispute and juvenile.

22.5 The Supreme court shall establish the chamber pursuant to article 22.4 upon recommendation by the General Council of Courts in consultation with the chief judge of the respective court .

22.6 The first instance courts shall be systematically numbered and have an address ' \_\_\_th first instance court' which shall be referred as the court's legal, official address.

22.7 The first instance court may operate in mobile form to ensure access to citizens. The General Council of Courts shall approve general regulations for the operation of the court in mobile form.

#### Article 23 Powers of first instance court

23.1. The first instance court shall exercise following powers in addition to power stipulated in the article 22.1;

- 23.1.1. to submit recommendations to the Supreme court to improve legislation based on its trial practice;
- 23.1.2. other power afforded by law.

#### Article 24 Power of the Chief Justice of the first instance court

- 24.1. The Chief Justice of the first instance court shall exercise the following powers in addition to the power provided in article 13.1;
  - 24.1.1. to exercise power defined in article 10.2 of the law on Legal Status of Judges.
  - 24.1.2. to appoint the chair of the court hearing on quarterly or semi-annual basis and to appoint judges upon review by the judges' panel pursuant to article 20.1.1.
  - 24.1.3. other powers afforded by law.

## Article 25 Judges' panel

25.1. Each court shall have the panel of all judges.

25.2. The panel of judges shall convene on regular basis to review the following matters;

25.2.1 to determine internal organization and regulation in collaboration with the court secretariat with exception to review a particular case or dispute;

25.2.2 to determine the order in which chairs should be appointed in court hearings;

25.2.3 to determine the groups of judges that will preside in court hearings

25.2.4 to propose requests for professional development to the General Council of court;

25.2.5 to nominate a candidate for membership to the General Council of court

25.2.6 to nominate a candidate for position of the chief judge of the respective court

25.2.7 to nominate a candidate for membership to the Judiciary Ethics committee

25.2.8 other power defined in the law.

25.3 The chief judge of the respective court shall announce the meeting date of the judges' panel and chair the meeting. A special meeting can be convened by a vote of the majority of the judges of the respective court.

25.4 The panel of judges shall define its meeting procedure.

25.5 The judges' panel shall issue a decree on the basis of a majority vote on the issues defined in the article 25.2. The chief judge of the court shall ensure enforcement of the decision.

## CHAPTER SEVEN.

### GUARENTEE OF JUDICIARY

#### Article 26 Guarantee for judiciary independence

26.1. The state shall guarantee the political, legal, financial independence of judiciary.

#### Article 27 Political and legal guarantee of judicial independence

27.1. Neither a private person nor any official including the President, Prime Minister, members of the State Ikh Khural and the Government, officials of political parties or other mass organizations, shall interfere with the judges exercise of their duties.

27.2 Court facilities shall not be used for any purposes other than court hearings.

27.3 The State shall be liable for damage caused by judges in the course of exercising their powers.

27.4 Legal persons who disrespect courts, interfere in court hearings, fail to execute court decisions, slander judges, citizens' representatives and bailiffs, shall be held liable and the infringed rights and reputation shall be restored.

27.5 Judges and judiciary staff shall be prohibited from being members of any political party or political movement.

#### Article 28 Financial guarantee of judicial independence

28.1 Staffing, budget, finance shall be adequate to ensure the independence of the judiciary and the impartiality of judges.

28.2 The judiciary shall have a separate budget which is an integral part of the state central budget.

28.3 The General Council of Courts shall develop the judiciary budget including an operational budget and capital investment budget for all courts and to submit the budget directly to the State Great Hural.

28.4 Downsizing of the judiciary operation budget from a previous year is strictly prohibited.

28.5 The judiciary shall be prohibited from receiving any donations in any form from domestic and foreign individuals, legal persons, except international, humanitarian aid and loan programs through official agreements between Mongolia and foreign parties.

#### Article 29 Organizational guarantee of judicial independence

29.1. The judiciary shall have its own premises.

29.2 The court hearing shall be conducted only in court room.

29.3 Courts and judges shall be provided with permanent and mobile premises with court room, citizens' reception area, facilities, transportation, communication, equipment, furniture, and security to ensure the independence of judiciary.

#### Article 30 Guarantee for court security

30.1. The court facility shall be protected by the state security.

30.2. The police shall perform necessary duties to ensure order during court trials, the safety of judges and other participants, escorting the defendants to the trial, searching for the defendants, witnesses and the accused who fail to appear after being summoned, and for the defendants and parties who have escaped from the court.

30.3 The General Council of Courts and the cabinet member in charge of Justice shall approve the procedure defined in the 30.2.

### CHAPTER EIGHT.

#### MISCELLANEOUS

#### Article 31 Court rulings

31.1. Courts shall render decisions on behalf of Mongolia.

31.2. The General Council of Courts shall approve standards, procedures for the formulation of court decision and its reasoning section.

31.3. Courts shall render following decisions upon hearing cases or disputes:

31.3.1 first instance shall render sentencing or acquitting judgments in the criminal cases, decisions in legal disputes;

31.3.2 appeal court decisions;

31.3.3 decrees of the Supreme court.

31.4 Court or judge shall render decrees for procedures except as provided in article 31.3.

31.5 A court in a collegial hearing shall render decisions by a majority vote. The dissenting opinion of the minority judge or judges shall be included in the court decision.

31.6 Court decisions of all courts including dissenting opinion defined in article 31.5 shall be posted in the website of the respective court and may be published.

#### Article 32 Enforcement of court decisions

32.1. Any individual or legal entity that operates within the territory of Mongolia shall comply with court decisions.

32.2. Non-compliance with a court decision shall be subject to compulsory enforcement on the grounds and procedures established by law.

32.3. Any person responsible for intentional non-compliance or interference with execution of the effective court decision shall be subject to criminal sanctions.

32.4 The cabinet member in charge of justice shall be responsible for the enforcement of court decisions.

32.5 The enforcement of court decisions shall be regulated by the law.

Article 33 Language of Court Proceedings

33.1. Court proceedings shall be conducted in the Mongolian language.

33.2. A person who does not speak Mongolian language shall have the right to get acquainted with all the records of the case with the assistance of an interpreter, to make statements during the court hearings in his/her native language.

Article 34 Entry into force

34.1. This law shall enter into force on ..... (day ) .....(month) 20..... (year).