



## United Nations Convention against Corruption

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Country: Mongolia

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Comments:

**Completed self-assessment checklists should be sent to:**

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## A. General information

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#### 1. General information

##### **Focal point:**

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##### **Institutions consulted:**

Independent Authority Against Corruption, Civil Service Council, General Audit Authority, National Statistics Office of Mongolia, Bank of Mongolia (Financial Information Unit), Financial Regulatory Commission, General Election Commission, Judicial General Council, The State General Prosecutor's Office, Cabinet Secretariat of Government of Mongolia, Ministry of Finance, Ministry of Justice and Home Affairs, Government Agency for Policy Coordination on State Property, National Police Agency, General Intelligence Agency, Agency for Standard and Metrology, Mongolian National Chamber of Commerce and Industry, Mongolian Business Council, Mongolian Employers's Federation.

**Please provide information on the ratification/acceptance/approval/accession process of the United Nations Convention against Corruption in your country (date of ratification/acceptance/approval of/accession to the Convention, date of entry into force of the Convention in your country, procedure to be followed for ratification/acceptance/approval of/accession to international conventions etc.).**

Mongolia joined UNCAC on April 29, 2005 and the Parliament ratified on October 27, 2005 by approving the Law on Ratifying the United Nations Convention Against Corruption. Mongolia accessed the UN Convention against Corruption on 29th April 2005 and ratified <<https://www.legalinfo.mn/law/details/10269>> it on 27 October 2005.

Article 10, paragraph 3 of the Constitution of Mongolia states “The International treaties to which Mongolia is a Party, shall become effective as domestic legislation, upon the entry into force of the laws on their ratification or accession”. Thus legal grounds for UNCAC becoming effective on the territory of Mongolia as domestic legislation have been laid down by ratification of UNCAC by the Mongolian Parliament and adoption of the Law on its ratification as indicated in the article 15.1 of Law of Mongolia on International Treaties that states “If Mongolia accedes to an international treaty by mandatory ratification, then the Parliament shall enact a law.

**Please briefly describe the legal and institutional system of your country.**

The Mongolian legal system established on the basis of the 1992 Constitution is a civil law system primarily based on the continental or Romano-Germanic tradition, although it retains some typical aspects of the Soviet legal system. The Civil Code of Mongolia itself is ostensibly modelled on the major continental European codifications, in particular the German Civil Code.

However, some elements of Anglo-Saxon legal tradition, such as debates were introduced into the court practices during the legal reform of 2002 by approval of related laws. This is an example of the transfer of the Mongolian legal system to the mixed legal systems due to globalization.

Generally, Mongolia adheres to the Romano-Germanic legal system's division between civil and public law. Although criminal law is classified as a separate division, some legal scholars agree that it should be regarded as a specialised part of public law.

Public law is concerned with the legal relationships between the citizen and the state, or the manifestations of the state in the form of public authorities. Most public law actions take place in the administrative courts.

Civil law contains a concentration of legal principles concerned with the regulation of civil life, or in other words, the legal relations between private individuals. Transactions undertaken between a public body and an individual are governed by civil law and not public law rules.

The main sources of law in Mongolia are: (i) the Constitution; (ii) international treaties; (iii) parliamentary laws (known as statutes in common law jurisdictions); (iv) other types of legislative acts; and (v) interpretations (resolutions) of the Supreme Court. Only members of Parliament, the Cabinet, and the President of Mongolia may initiate draft legislation.

As the Constitution of Mongolia is a fundamental law of Mongolia, it has been legalized the basis of the Mongolian state and political democratic system. The Constitution of Mongolia stipulates the grounds for the selection and appointments, mandates, responsibilities, principles of communication of the State Great Khural (the Parliament), and President, the Government, and judiciary bodies of Mongolia, based on the principles of equitable distribution of state power, and mutual supervision. Laws of the state system (law on the State Great Hural, Law on the President, Law on the Government, Law on Court, Law on Prosecutor's Office, the Law on Legal Status of Ministries and Agencies, and the Procedural laws for Criminal, Civil, and Administrative cases) were adopted, and the basic principles of the state, citizen-civil society relationship were legalized and legal guarantees of human rights and freedoms are established. As a result, the power of the State has been separated in independent branches, which are legislative, executive, and judicial.

In Mongolia, legal acts in the broad sense of the term can take any number of forms, including Parliamentary resolutions, presidential decrees, cabinet resolutions, and ministerial or agency rules, procedures, and orders. All ministries and agencies have the power to issue normative acts pursuant to specific delegation of authority from Parliament and Cabinet. The acts of ministries and other government agencies of Mongolia are called rules and procedures.

International treaties and international legal acts and principles are part of Mongolian legal system as indicated in the Article 10, paragraph 3 of the Constitution of Mongolia that states “International treaties to which Mongolia is a Party, shall become effective as local legislation, upon the entry into force of the laws on their ratification or accession”. In other words, the court has legal grounds to issue a decision based on UNCAC as well as domestic legislation. It should be noted whether its international convention is in force of entry while court using the legal principles indicated in the international convention for resolving the disputes.

The Court will use valid International conventions upon its official publication per Article 10, paragraph 3 of Constitution of Mongolia “International treaties to which Mongolia is a Party, shall become effective as local legislation, upon the entry into force of the laws on their ratification or accession”, article 26.3 “National laws are subject to official promulgation through publication and, if the law does not provide otherwise, enter into force 10 days after the day of publication”, article 50.3 “The Supreme Court and other courts have no right to apply laws that are unconstitutional or have not been promulgated. to use the laws not officially published”, article 25.1 of Mongolian Law of International treaties “The rules on publication of Laws of Mongolia shall apply to the publication of international treaties which are ratified by the State Ih Hural, and the rules on publication of Government decrees shall apply to the publication of other international treaties. The Court has the possibility to proceed under international treaty, multilateral agreements, or proceed under directive of diplomatic relationship while executing the foreign country court decision related to asset recovery, sending the court decision to foreign country, and proceeding with the criminal and civil offence.

The Constitution of Mongolia declares the state structure of Mongolia to be unitary.

Moreover, the Article 1.2.1 of the Criminal Procedure Code stipulates that “Regardless of the place where a crime is committed, criminal proceedings on the territory of Mongolia shall be, in all circumstances, executed in conformity with the Law.”

In case for Mongolia, per notification officially submitted to the UN Secretary-General, the Central Authority for implementation of UNCAC or provision of mutual legal assistance, transfer of offenders, seizure, confiscation and return of assets, is the Ministry of Justice. In case of foreign requests, the Ministry of Justice sends the request by a foreign State to the State General Prosecutor's office. The Prosecutor monitors the execution of the request which is to be completed

by the Investigation office. The executed request will be delivered to the General Prosecutor and to the Ministry of Justice with transmission of the relevant Prosecutor.

Adopted by the Prosecutor General's Decree No. A / 88 dated August 11, 2015, "Methodological Guidelines for supervising criminal investigation in compliance with the Criminal Procedure Code" is currently being enforced.

When executing a foreign court order relating to asset recovery or sending request of executing court order in foreign countries, or conducting criminal and civil proceedings in the courts, Bilateral Mutual legal assistance treaty which Mongolia signed with, Multilateral International Treaty and/or Convention which Mongolia joined, without such treaty, diplomatic channel can be used.

**In a separate communication addressed and e-mailed to the secretariat (uncac.cop@unodc.org), please provide a list of relevant laws, policies and/or other measures that are cited in the responses to the self-assessment checklist along with, if available online, a hyperlink to each document and, if available, summaries of such documents. For those documents not available online, please include the texts of those documents and, if available, summaries thereof in an attachment to the e-mail. If available, please also provide a link to, or the texts of, any versions of these documents in other official languages of the United Nations (Arabic, Chinese, English, French, Russian or Spanish). Please revert to this question after finishing your self-assessment to ensure that all legislation, policies and/or other measures you have cited are included in the list.**

Please see Annex 1 for the list of relevant laws and regulations cited in UNCAC Chapter II and V self-assessment checklist.

**Please provide a hyperlink to or copy of any available assessments of measures to combat corruption and mechanisms to review the implementation of such measures taken by your country that you wish to share as good practices.**

Mongolia has paid high attention to the implementation of UNCAC and has been involved in a number of foreign and local assessments since its ratification of UNCAC. Mongolia is one of the first State Parties to UNCAC who conducted self assessment and submitted it to the United Nations Office on Drugs and Crime (UNODC):

- 2009: Mongolia was one of 29 countries who participated in UNCAC initial pilot review programme. The pilot review has been conducted through a peer review process and Mongolia was reviewed by Sweden and Pakistan.

<<https://www.unodc.org/documents/treaties/UNCAC/COSP/session3/V0987359e.pdf>>

- 2011: Transparency International Mongolia, a representative of the civil society, conducted an independent evaluation of Mongolia's implementation of UNCAC Chapter III and IV.

<<http://uncaccoalition.org/files/cso-review-reports/year1-mongolia-report.pdf>>

- 2014: Istanbul Anti-Corruption Action Plan made a review of Mongolia's anti-corruption activities and measures.

<<https://www.oecd.org/corruption/acn/ProgressUpdateMongoliaSept2013ENG.pdf>>

- 2015: The Organization for Economic Co-operation and Development (OECD) and Anti-corruption Network for Eastern Europe and Central Asia issued a report on activities and reforms undertaken by Mongolia's anti-corruption measures.

<[http://www.iaac.mn/old/pdf/ussg/Mongolia\\_MonitoringReport\\_2015\\_ENG.pdf](http://www.iaac.mn/old/pdf/ussg/Mongolia_MonitoringReport_2015_ENG.pdf)>

- 2016: In preparation to Mongolia's plan to conduct UNCAC self assessment in 2016 teams of local experts were selected to provide independent preliminary assessment of the implementation of Chapter II (Preventive measures), V (Asset Recovery). This evaluation was financed by UNDP and undertaken by IAAC upon assignment from the "Support to Participatory Legislative Process" project" implemented by the Secretariat of the State Ikh Khural (Parliament) of Mongolia.

<[http://www.iaac.mn/old/pdf/nub/Convention\\_5.pdf](http://www.iaac.mn/old/pdf/nub/Convention_5.pdf)>

- 2017: Study of Private Sector Perceptions of Corruption (STOPP) is an annual survey The Asia Foundation conducts in collaboration with the Sant Maral Foundation in Mongolia. Compiling the perceptions of the business community, STOPP illustrates how the business community is affected by corruption. <[https://asiafoundation.org/wp-content/uploads/2018/02/Study-of-Private-Sector-Perceptions-of-Corruption\\_STOPP-2017\\_Eng.pdf](https://asiafoundation.org/wp-content/uploads/2018/02/Study-of-Private-Sector-Perceptions-of-Corruption_STOPP-2017_Eng.pdf)>

- 2018: The Asia Foundation, in collaboration with Sant-Maral Foundation, released the results of its 19th Survey on Perceptions and Knowledge of Corruption (SPEAK) in Mongolia, a nationwide survey of 1360 citizens in rural soums, aimags, and the capital city of Ulaanbaatar. <[https://asiafoundation.org/wp-content/uploads/2018/09/SPEAK-Survey\\_2018\\_eng.pdf](https://asiafoundation.org/wp-content/uploads/2018/09/SPEAK-Survey_2018_eng.pdf)>
- 2019: The Organization for Economic Co-operation and Development (OECD) and Anti-corruption Network for Eastern Europe and Central Asia issued a report on activities and reforms undertaken by Mongolia's anti-corruption measures. The 4<sup>th</sup> round of Monitoring was conducted within the framework of Istanbul action plan: <<https://www.oecd.org/corruption/acn/OECD-ACN-Mongolia-4th-Round-Monitoring-Report-2019-ENG.pdf>>

**Please provide the relevant information regarding the preparation of your responses to the self-assessment checklist.**

Mongolia is paying high attention to the self-assessment of the implementation Chapter 2 and 5 of the UNCAC. Particularly, under the UNDP's "Support to Participatory Legislative Process" project, two teams of independent expert groups, selected by the IAAC, carried out external review and prepared draft of the report.

Moreover, an ad hoc group, which totally represents governmental and non-governmental organizations, was also appointed to the self-assessment. Then, the IAAC organized series of training among members of the ad hoc group and other stakeholders on how to conduct the self-assessment.

Based on the knowledge gained through the training, the ad hoc group's members of the relevant governmental and non-governmental organizations have submitted their respective draft of proposals to the IAAC.

The draft of the self-assessment report, prepared based on the proposals, was validated by the relevant parties and finalized.

**Please describe three practices that you consider to be good practices in the implementation of the chapters of the Convention that are under review.**

1. Law of Mongolia on the Regulation of Public and Private Interests and Prevention of Conflict of Interest In Public Service was passed in January 2012. Enactment of this law was an important step to improve reputation of civil service. The law has 5 chapters and 30 Articles for the purpose of eliminating corruption causing factors, protect from risk of corruption and corruption prevention. The law regulated the general obligation of the public to prevent conflicts of interest, ways to inform about possible conflict of interest to the authorities, measures to take when gifts and advantages are offered to public servants with respect to their official duties. Annex 5 on "List of Officials to Provide Statement of Private Interest and Declaration of Asset and Income" of the Resolution #05 of the Parliament on Approval of procedure for registration, verification and filing of official's declaration of private interest, and declaration of asset and income and the forms for declarations (2012) was renewed. According to the law, there is already a mechanism in place where a civil servant refuses to make a decision related to his/her related people, and mandatorily informs that she/he has no conflict of interest before taking any actions. Moreover, a candidate for a civil service position, submits his/her preliminary private interest declaration to the IAAC. IAAC reviews whether there are any relatives of the candidate in the civil service and whether any risks of conflict of interest may arise if the candidate was to be appointed in the position. IAAC informs result of reviews each candidate that submitted their declarations during the Press briefing on 25<sup>th</sup> of each month, published on its official website [www.iaac.mn](http://www.iaac.mn), Facebook and twitter pages. Furthermore, some public bodies such as Ministry of Construction and Urban Development, Mongolian Agency for Standard and Metrology, and Ministry of Justice publishes in their official websites IAAC's review report on the preliminary declaration of candidates nominated for the positions in their agencies.

After making amendments to certain resolutions of the Legal Standing Committee of the Parliament, IAAC currently receives the Preliminary private interest declaration electronically, so that declarants after submitting their declarations electronically, just have to print a page called "Confirmation form". Development of the electronic system began in 2017 and finalized in 2018. In the end of 2019, all public bodies will be connected to the electronic system.

Mongolian Government issued Resolutions on August 31, 2017 and December 6, 2017,

respectively, on Naming 49 jurisdictions as offshore zones, based on the Article 10<sup>13</sup> of the Regulation of Public and Private Interests and Prevention of Conflict of Interest. Moreover, under the Article 10<sup>14</sup> of the same law, "If a declarant himself/herself or under his/her related person's name, opened bank accounts, placed monetary assets, owned tangible or intangible assets, incorporated legal entities in a way of buying shares, should stop immediately such activities and inform the IAAC about changes made into his/her income and asset declaration within 30 days. Furthermore, under the same law, if a declarant himself/herself or under his/her related person's name, opened bank accounts, placed monetary assets, owned tangible or intangible assets, incorporated legal entities in a way of buying share during the tenure of his/her official duty, the abovementioned restrictions shall not be imposed. In contrast, if such acts were committed out of his official duty, the individual is obligated to inform the IAAC in written form. Deadline for informing the IAAC was April 6, 2018 and 20 officials informed IAAC about his activities is offshore zones.

In 2017, in order to implement the Resolution of the Government, the Head of IAAC amended his Decree #91 of 2012 and issued a new decree #123 for approving a Form of Declaration for which a declarant himself/herself or under his/her related person's name, opened bank accounts, placed monetary assets, owned tangible or intangible assets, incorporated legal entities in offshore zones. Also, the IAAC delivered guidance to 108 public agencies on ensuring implementation of the Resolution on Naming 49 jurisdictions as offshore zones.

2. In generally, Mongolia has an established practice of conducting corruption and integrity surveys, (general as well as targeted surveys, such as "politics and law enforcement sector", "judicial and prosecutorial bodies" and "state administrative bodies"). Especially, IAAC has been conducting assessing corruption risks in various state bodies and sectors in cooperation with NGOs. The Risk Assessments cover government agencies and state-owned enterprises, including hospitals and universities. The results are integrated in the recommendations of the IAAC and ultimately in the action plans of the relevant bodies. The new methodology of corruption risk assessment in state agencies was approved by the IAAC and Risk Assessment conducted in 24 agencies by 6 NGOs in 2018. In 2019, 15 public organization was evaluated by the Risk Assessments. The results of surveys are regularly published.

3. Law on Glass Account was adopted in 2017 and entered into force from January 1, 2015. The purpose of this law is to create transparent system ("glass accounts") to enable public monitoring and [further] disclosure to public regarding decision making processes and activities [carried out] in relation to implementing budget management for the purpose of efficiently allocating/spending state and local administration budget.

The law provides establishment of information system for budget execution and transparency; public monitoring mechanisms, and improved effectiveness of anti-corruption measures; legal basis for awarding state-run services on contractual basis to private entities; and increased control over corruption at all levels.

**Please describe (cite and summarize) the measures/steps, if any, your country needs to take, together with the related time frame, to ensure full compliance with the chapters of the Convention that are under review, and specifically indicate to which articles of the Convention such measures would relate.**

Not applicable.

## II. Preventive measures

### 5. Preventive anti-corruption policies and practices

#### 2. Paragraph 1 of article 5

1. Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.

#### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

The Parliament of Mongolia adopted the National Anti-Corruption Strategy in 2002, which was implemented in two phases and the period of implementation was completed in 2010.

Mongolia adopted Anti-Corruption Law in 1996 but the law was not implemented effectively. Therefore, the new Anti-Corruption Law was adopted by the Parliament of Mongolia on July 6 2006, in order to develop and implement an effective and harmonious anti-corruption policy in accordance with the fundamental principles of the legal system and entered into force since November 1, 2006.

Provision 3.3.2.2 of the "National Security Concept of Mongolia" approved by the Resolution #48 of the Parliament (2010) stipulates that "Promote government transparency and accountability and expand anticorruption efforts at the national and local levels and ensure participation of political parties and civil society in these efforts. Intensify corruption prevention and advocacy efforts and nurture a sense of intolerance towards corruption".

<<http://www.nsc.gov.mn/sites/default/files/images/National%20Security%20Concept%20of%20Mongolia%20EN.pdf>>

One of the priority goals of the Millennium Development Goal-Based Comprehensive National Development Strategy, adopted by the Parliament by its Resolution #12 in 2008, is to "Improve the political democratic system, create a transparent and accountable system that is free from corruption and bureaucracy (3.5)". The long-term development risks for Mongolia (8.2.4) were named as weakening the enforcement of laws, lack of accountability, lack of fair elections, and expansion of corruption.

<[http://siteresources.worldbank.org/INTMONGOLIA/Resources/NDS\\_DRAFT\\_ENG.pdf](http://siteresources.worldbank.org/INTMONGOLIA/Resources/NDS_DRAFT_ENG.pdf)>

For these reasons, on the one hand, in order to implement the above stated policy documents, on the other hand implementation of the National Anti-corruption strategy (2010) was completed, Mongolia had to have a comprehensive anti-corruption policy document and started drafting the new National Anti-corruption Strategy (hereinafter "the Strategy").

At the time critics said that although the Anti-Corruption Law provides some monitoring mechanisms and jurisdictions to investigate corruption offences, it did not define national anti-corruption policy, but rather only regulated independence of the Independent Authority Against Corruption, its mandate and functions, legal, economic, and social guarantees of its staff. In this regard, when drafting the new National Anti-corruption Strategy, we considered the criticisms that the law was restricted to the only agency in charge of the fight against corruption (hereinafter "IAAC"). <<https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/1.Anti-Corruption%20Law%20of%20Mongolia.pdf>>

In 2013, at the initiative of the President of Mongolia, the Mongolian Female Lawyers Association, the United States Agency for International Development, "Project on supporting Governance and Transparency" by Asia Foundation, Mercy Corps Mongolia jointly with the Independent Authority Against Corruption developed the concept and draft of National Anti-Corruption Strategy and organized 74 national consultations which gathered 3160 people to discuss

the draft Strategy between November and December, 2013.

Also, on January 10, 2014, the National Forum was held and in late 2016, a comprehensive forum was organized at local level as well. Civil society organizations are actively involved not only in the development but also in the implementation of the Strategy.

In 2014, in order to create a legal basis for the adoption of the Strategy Article 2<sup>1</sup> was added to the Anti-Corruption Law which states that “Parliament shall approve the national programme against corruption, and the implementation plan for the same shall be approved for a period specified in the approved programme.” In addition, the law also provides general obligation to the public authorities and officials to implement the Strategy and to report its implementation to the relevant authorities.

In addition, Article 2.4 of the Sustainable Development Concept-2030, adopted by the Resolution #19 of the Parliament (February 05, 2016) defines Anti-corruption Measures.

[<https://www.un-page.org/files/public/20160205\\_mongolia\\_sdv\\_2030.pdf>](https://www.un-page.org/files/public/20160205_mongolia_sdv_2030.pdf)

The National Anti-Corruption Strategy was approved by the Parliament of Mongolia by its Resolution #51 on November 3, 2016.

[<https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/3.Mongolian%20National%20Anti-Corruption%20Strategy.pdf>](https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/3.Mongolian%20National%20Anti-Corruption%20Strategy.pdf)

Main goal of the Strategy is “to prevent all levels of the public service, the public servants, the private enterprises, the civil society and the political parties from the risk of corruption, to engrain ideology of fairness among the public and to develop open, transparent and responsible society.” There are 11 objectives to achieve this goal and 83 activities will be implemented between 2016-2023 within 2 phases.

According to Resolution 114 of the Government of Mongolia on April 12, 2017, the "Action Plan for the Implementation of the National Anti-Corruption Strategy (hereinafter Action Plan)" was approved and planned to implement a total of 216 measures with total cost of MNT 24962.4 million from the state budget. [<https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/4.Action%20plan%20for%20implementation%20the%20National%20Anti-Corruption%20Strategy%20of%20Mongolia.pdf>](https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/4.Action%20plan%20for%20implementation%20the%20National%20Anti-Corruption%20Strategy%20of%20Mongolia.pdf)

The Strategy reflects the measures that ensure the involvement of all public and private organizations, including the broad participation of civil society organizations, citizens and the public.

The following objectives shall be implemented step by step in order to achieve the goal of the Strategy:

- to prevent the risk of corruption through strengthening fair, accountable and transparent public service, to implement a merit principle based on knowledge, education and independent from political influence when making selection and appointment of public servants;
- to ensure the openness of public service, develop electronic services that respect customers' interest and upholds their satisfaction, to improve its quality, efficiency, and to strengthen public servants' accountability;
- to improve administration and inspection on the processes of the budget, finance and audit, to ensure its transparency, and to spend the budget and foreign loan or aids efficiently for its designated purposes;
- to enhance the legal framework of procurement process, to increase its efficiency, fairness, accessibility and transparency, and to improve monitoring and accountability of the procurement process;
- to strengthen integrity, transparency and independence of judiciary and law enforcement authorities, and to improve cooperation between these organisations in combating corruption;
- to strengthen cooperation between the public and the private sectors in preventing corruption;
- to improve the scrutiny of the citizens and the public in corruption prevention activities, to

increase participation and roles of civil society organisations, and to support their initiatives;

- to enforce implementation of legislation that ensures citizens' right to obtain information, to improve legal framework of the media, professional ethics and accountability of journalists;
- to enable public access to financing of political parties and elections, to ensure the government, the judiciary and the parliament be free from illegal interests and influences of the political and the business groups;
- to engrain ideology of fairness, to organise public awareness activities against corruption in stages, and to enhance education of corruption;
- to develop international cooperation in relation to combatting and preventing corruption, and to receive and implement the recommendations and guidance of international organisations;

From of 19 July 2017 to 2019, the Office for Implementing the National Anti-Corruption Strategy (hereinafter “The Office”) worked within the structure of IAAC. Since the new structural change was made, Prevention and Public awareness Department of IAAC was tasked to fulfill the work of the Office, thus the Office became part of the Department. With this structure, the IAAC is committed to coordinating the implementation of the Action Plan across the country by monitoring and evaluating implementation, coordinating activities of implementing agencies, developing cooperation with regional and international organizations, and informing citizens and the public about the implementation process. In this regard, IAAC organizes special meetings with management and officials of the implementing agencies to provide information, technical advice and coordinate their activities.

Public bodies and state-owned legal entities develop their own Anti-Corruption Plans in order to implement the Action Plan of the Strategy and the Anti-Corruption Law and place their plans and implementation reports on the organization's official websites.

A level of attainment to reach at the end of each phase of the Strategy is defined. The Action Plan also outlines the steps to be taken on each step.

The first phase of the Strategy will be completed in 2019. IAAC is giving directives to the implementing agencies urging them to work effectively and efficiently implement each of the activities outlined in the plan and actively cooperate with civil society, the private sector and the media.

According to the Article 4.1.5.7 of the Action Plan “Create and develop data base of the national anti-corruption strategy” software of the database was developed and started functioning.

The software will not only be limited to receiving implementation reports, but also conduct monitoring and analysis of the reports submitted by the organizations, as well as enable the organizations to conduct their self-assessment on their progress and implementation results and the IAAC to assess the reports as well. In the software, we can incorporate and update all the measures taken by agencies responsible for implementing the Strategy as well as upload any necessary documentation, information and research results.

Workshop on “Introducing the electronic database and software for the Strategy” was organized in 2019 for the relevant management and specialists. Paper-based implementation reports has been fully abolished and the implementing agencies became able to provide their information electronically and update regularly. Currently, implementing agencies are submitting their reports of 2018 to the database.

Based on Article 8.2 of the National Anti-Corruption Strategy, in order to increase effectiveness, improve implementation and accountability of the Strategy, IAAC assessed the implementation of the 202 measures to be implemented in 2018, and presented the result of the assessment to the Parliament. To summarize the current situation of the implementation of the Strategy, out of 202 measures to be taken in 2018, 24 measures were not taken, 178 measures were implemented partially, thus the implementation percentage was estimated at 35.34 percent.

Some achievements from the implementation of the first phase of the Strategy are as follows:

- Revised Civil Service Law <<https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/5.Law%20on%20Civil%20Service%20of%20Mongolia.pdf>>

The revised version of the law was adopted in 2018 and entered into force from 2019. The law establishes the basic fundamentals for preventing corruption risk by strengthening integrity, accountability and transparency of civil service, improving merit-based selection and appointment of civil servants which is free from political influence and focused on knowledge and education [of candidates] and ensuring professional and stable civil service.

According to the law, more than 40 rules and regulations have been adopted. The Civil Service Law rules civil servants other than those at politically-appointed positions to be away from activities of political parties or coalitions; and to only adopt merit-based selection process when appointing a person who best meets requirements of the position of the civil service; to select suitable candidate among existing civil servant working in public institutions in accordance with the merit-based promotion principle, or among individuals from the roster of reserve candidates for management positions in case of manager's position vacated in core civil service; to only focus on a set of qualifications, including knowledge, education, profession, specialization, skills, experiences and performance outcomes when appointing and dismissing civil servants;

In addition, if a decision on civil service personnel management and qualification examinations has been found to have no legal grounds, then the Civil Service Council will change or revoke the unlawful decision, if the Government has issued such decision, based on notification issued by the Civil Service Council, shall cancel the decision within 14 working days. Moreover, the Article 32.6 states that "In case a political appointee violated Article 31.2 and 32.2 of this Law, it shall become the basis for resigning him/her".

In pursuant to the law, the Civil Service Council shall deliver its annual operational report (hereinafter as "report") to the State Great Khural (the Parliament) within the first quarter of the following year. The report shall cover monitoring and inspection on compliance of civil service legislations, results of dispute settlement in relation to violation of rights of candidates nominated for public positions; conclusion on compliance and irregularities of civil servants' code of conduct, and proposal on follow-up actions. The State Structure Standing Committee shall discuss the report during its meeting and make conclusion accordingly. The conclusion shall be published in the "State Gazette" journal.

- In accordance with the law, "Ethical Rule of Public administration positions and Public support service positions" was approved by the Government by Resolution #33 in 2019. "Т?рийн захиргааны болон т?рийн үйлчилгээний албан хаагчийн ёс з?йн д?рэм" <<https://www.legalinfo.mn/annex/details/9237?lawid=14044>>
- The Decree #12 of the President of Mongolia in 2018, approved the "Prosecutor's Disciplinary Rules" and the Decree #13 of 2018 approved revised "Rules for Selection of Judge" for the fourth time.
- Working group on Package law of Judiciary was formed.
- It is evident that a proposal and introduction has been submitted to the National Security Council on "Strengthening fight against illicit enrichment, money laundering and abuse of power offences" and currently being implemented.
- As stipulated in the National Anti-Corruption Strategy "to ensure the openness of public service, develop electronic services that respect customers' interest and upholds their satisfaction, to improve its quality, efficiency, and to strengthen public servants' accountability", certain measures are taken to provide some types of civil service electronically. Government's Resolution #259, approved "List of government services to be provided electronically using the state electronic exchange system".
- The "Working Group on the Use of Public Key Infrastructure Policy and Recommendation on the Implementation of the Rules and Regulations" which was formed by Head of the Communications and Information Technology Authority, by his Decree #A/36 in 2017, concluded to provide digital signatures to government/state agencies based on a contract. In this regard, Government Certificate Authority started providing digital signatures to state/government agencies.
- In 2017, the Government adopted Resolution #111, "General Rules on Electronic Document Management" and Resolution #04 "National Program on Introducing Information Technology in the State Archives and Document Management".

- The revised Law on State Registration, the Law on Civil Registration of the State, the Law on State Registration of Legal Entities, and the Law on State Registration of Property Rights were approved by the plenary session of the Parliament June 21, 2018 and entered into force on November 1, 2018.
- The law has a provision to provide information electronically to the public on registry information of citizens, property and state registration of public entities other than those prohibited by law. The state registration authority is tasked for 81 types of registration and provides 48 types of reference information to the citizens. 70 percent of public service is based on registration information. Therefore, providing certain types of information electronically is a time saving and efficient step. The Government's "Rule on the Formulation and Use of Public electronic Database" was approved by Government Resolution #159 of 2017. Based on this rule and "Policy directive on state information exchange system" approved by Head of the Communications and Information Technology Authority, by his Decree #A/61 of 2016, HUR system for State information exchange was developed and started functioning since January 2018. Since then, 78 web services were developed for the HUR system, was connected to 66 government/state bodies and responded to 8 million requests for information exchange. Through the introduction of the system, it enabled fast exchange of information between organizations and efficient government services to citizens. Currently, the General Tax Authority, Golomt Bank, Trade and Development Bank, Unitel Group LLC and Mobicom Corporation connected to the system and have developed a six-month contract for service testing, developing a plan of action, exchanging technical contacts, and sharing information.
- Annex 1, "Regulation on the Use of the Unified Government Information Network", Annex 2, "Regulation on Establishing and Using Special Information and Communication Network" and Annex 3, "List of state/government bodies and state-owned legal entities to connect to Unified Government Information Network" of the Government Resolution #30 of 2018 were approved respectively.
- The Government established a Central Information Database of criminal cases and violations for the use other relevant agencies, such as courts, prosecutor's offices, police agencies and executive agencies of court decisions. In March 25, 2017, State Secretariat of the Ministry of Justice, Executive Secretariat of the General Judicial Council, Head of Administration Department of General Prosecutor's Office, Director of General Police Agency, Director of General Executive Agency for Court Decisions issued a joint decree #A/261, #A/171, #A/67, #A/32 on "Approving a Rule" which approved list of information to be uploaded in the Information database. Thanks to the joint decree, since March, 2017, information, and cases are electronically delivered between the said agencies.
- The Prime Minister's Decree No. 170 on "Information and Communications Policy Council" (hereinafter "Council") was issued in 2017. The main goal of the Council is to support development of e-governance, implementation and management of information and communications sector, to improve coordination of governmental organizations, and to provide integrated policy, planning and guidance.
- In 2018, investigation was conducted in the Government Special Funds such as the Crop Support Fund, the Livestock Protection Fund, the Employment Promotion Fund, and the Reimbursement Fund for Some Types of Crimes, and result of investigation was introduced to the Cabinet Meeting and to the public.
- Law on Ensuring Stability of Banking Sector was passed on 22 June 2018. The law regulated the banks to issue shares and securities in order to advance their own capital. This is a law that enables banks to raise or expand its funding sources independently from its resources, reputation, and capacity.
- Mongolia is committed to implementing the Anti-Corruption Law that promotes social engagement, rule of law, proper management of public and communal property, integrity, transparency and accountability principles. Several other laws have also been approved. <<https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/14.Public%20Procurement%20Law%20of%20Mongolia.pdf>> Law on procurement of goods, works and services with state and local funds was adopted in December, 2005 and amended in 2011 and 2019. For example, in 2019, spring session of the Parliament approved several important amendments on defining scope of the law, eliminating corruption causes and improving the legal framework.
- The Cabinet Secretariat has drafted the Law on Licensing and submitted it to the Parliament. Draft law is to decrease the number of permits to 2-3 times and provide public services in a fast and efficient manner.

- Corruption risk assessment methodology was approved by the Order No. A / 40 of 2019 of the Head of the Independent Authority Against Corruption (IAAC). Public bodies are engaged in corruption risk assessment and consumer assessment done by civil society organizations.
- IAAC has been closely cooperating with Mongolian National Chamber of Commerce, Business Council of Mongolia, Mongolian Student Association, Mongolian Youth Association, Globe International, Mongolian Journalists' Union, Mongolian Media Council, in terms of implementing the National Anti-Corruption Strategy (the Strategy) and organized multilateral workshops and training courses.
- Within the framework of Implementation of Goal 9 of the National Anti-Corruption Strategy, (to enable public access to financing of political parties and elections, to ensure the government, the judiciary and the parliament be free from illegal interests and influences of the political and the business groups), IAAC organized Forum on Law on Political Party: challenges and solutions" together with Transparency International Mongolia and Glass Party, partnership of NGOs against corruption on June 26, 2019. The forum focused on discussing whether the draft law on Political Party is in compliance with goals of the Strategy, international standards and good experiences and submit the outcome of the discussion to a working for drafting the law. Moreover, as Article 4.1.5.5 (to create mechanism to award whistle-blowers;) and 4.1.5.6 (to establish a legal framework to protect whistle-blowers and journalists;) are included in the Strategy. IAAC organized an open "Forum on Policy and Ways to Protect Whistle-blower" in June, 2019, in order to discuss needs and barriers for establishing legal framework.

Over 50 representatives from over 20 organizations, including governmental, non-governmental, media, research and research groups participated in discussions and exchanged views. Participants in the discussion are working to improve the draft law submitted to the Parliament, revise relevant surveys, and create a working group on the subject, including representatives from relevant organizations, and submit proposals from the working group to the Anti-Corruption Group of Parliament.

There is a positive outcome as a result of the revision of the content and curriculums of anti-corruption training courses and increased frequency, scope and type of public awareness activities for the citizens.

Along with National Anti-corruption Strategy, Action Plan for Implementing the Strategy and Anti-Corruption Law., The Parliament of Mongolia adopted several laws and regulations to support corruption prevention. For instance:

- In June 2011, Law of Mongolia on the Information Transparency and Right to Information was passed. The purpose of this law is to regulate relations pertaining to ensuring transparency of the state, and rights of citizen, legal entities to seek and receive information. <<https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/20.Law%20on%20Information%20Transparency%20and%20Right%20to%20Information.pdf>>
- Law of Mongolia on the Regulation of Public and Private Interests and Prevention of Conflict of Interest In Public Service was passed in January 2012. <<https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/2.Mongolian%20Law%20on%20Conflicts%20of%20Interests.pdf>> Enactment of this law was an important step to improve reputation of civil service. The law has 5 chapters and 30 Articles for the purpose of eliminating corruption causing factors, protect from risk of corruption and corruption prevention. The law regulated the general obligation of the public to prevent conflicts of interest, ways to inform about possible conflict of interest to the authorities, measures to take when gifts and advantages are offered to public servants with respect to their official duties. Annex 5 on "List of Officials to Provide Statement of Private Interest and Declaration of Asset and Income" of the Resolution #05 of the Parliament on Approval of procedure for registration, verification and filing of official's declaration of private interest, and declaration of asset and income and the forms for declarations (2012) was renewed. According to the law, there is already a mechanism in place where a civil servant refuses to make a decision related to his/her related people, and mandatorily informs that she/he has no conflict of interest before taking any actions. Moreover, a candidate for a civil service position, submits his/her preliminary private interest declaration to the IAAC.

IAAC reviews whether there are any relatives of the candidate in the civil service and whether any risks of conflict of interest may arise if the candidate was to be appointed in the position. IAAC informs the result of reviews each candidate that submitted their declarations during the Press briefing on 25<sup>th</sup> of each month, published on its official website [www.iaac.mn](http://www.iaac.mn), Facebook and Twitter pages. Furthermore, some public bodies such as Ministry of Construction and Urban Development, Mongolian Agency for Standard and Metrology, and Ministry of Justice publish in their official websites IAAC's review report on the preliminary declaration of candidates nominated for the positions in their agencies.

After making amendments to certain resolutions of the Legal Standing Committee of the Parliament, IAAC currently receives the Preliminary private interest declaration electronically, so that declarants after submitting their declarations electronically, just have to print a page called "Confirmation form". Development of the electronic system began in 2017 and finalized in 2018. In the end of 2019, all public bodies will be connected to the electronic system.

Mongolian Government issued Resolutions on August 31, 2017 and December 6, 2017, respectively, on Naming 49 jurisdictions as offshore zones, based on the Article 10<sup>13</sup> of the Regulation of Public and Private Interests and Prevention of Conflict of Interest. Moreover, under the Article 10<sup>14</sup> of the same law, "If a declarant himself/herself or under his/her related person's name, opened bank accounts, placed monetary assets, owned tangible or intangible assets, incorporated legal entities in a way of buying shares, should stop immediately such activities and inform the IAAC about changes made into his/her income and asset declaration within 30 days. Furthermore, under the same law, if a declarant himself/herself or under his/her related person's name, opened bank accounts, placed monetary assets, owned tangible or intangible assets, incorporated legal entities in a way of buying share during the tenure of his/her official duty, the abovementioned restrictions shall not be imposed. In contrast, if such acts were committed out of his official duty, the individual is obligated to inform the IAAC in written form. Deadline for informing the IAAC was April 6, 2018 and 20 officials informed IAAC about his activities in offshore zones.

In 2017, in order to implement the Resolution of the Government, the Head of IAAC amended his Decree #91 of 2012 and issued a new decree #123 for approving a Form of Declaration for which a declarant himself/herself or under his/her related person's name, opened bank accounts, placed monetary assets, owned tangible or intangible assets, incorporated legal entities in offshore zones. Also, the IAAC delivered guidance to 108 public agencies on ensuring implementation of the Resolution on Naming 49 jurisdictions as offshore zones.

- Law on Combating Money Laundering and Terrorism Financing was adopted in 2013. <https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/17.Law%20on%20Combating%20Money%20Laundering%20and%20Terrorism%20Financing.pdf>
- Law on Glass Account was adopted in 2017 and entered into force from January 1, 2015. The purpose of this law is to create transparent system ("glass accounts") to enable public monitoring and [further] disclosure to public regarding decision making processes and activities [carried out] in relation to implementing budget management for the purpose of efficiently allocating/spending state and local administration budget.

The law provides establishment of information system for budget execution and transparency; public monitoring mechanisms, and improved effectiveness of anti-corruption measures; legal basis for awarding state-run services on contractual basis to private entities; and increased control over corruption at all levels.

  - Another important law that the Parliament adopted is Law on Public Hearing. The law enables the citizens to participate in decision making process of the government such as drafting laws, setting norms, administrative actions and approving budgets. The law increased public trust in the government.
  - Damages caused by illegal decisions are regulated by the General Administrative Law of Mongolia. Sanctions imposed on officers for violation of law are specified in the Article

105.1. of the law. Besides provisions in the General Administrative Law “If the decision-making process of an administrative organization and an administrative act was formally considered as being in legal violation and having no legal force, the appropriate sanctions for an intentional or unintentional act of a responsible officer shall be imposed.” Civil service law also added a provision on “Compensation of damages incurred by the State and monitoring”. <https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/6.General%20Administrative%20Law%20of%20Mongolia.pdf>

- The Civil Service law, Article 50.1. If the central authority for civil service or a court proves unlawfulness of termination or temporary termination of appointment, or dismissal of a core civil servant, the damage incurred by the state shall be compensated by the official who made the wrongful decision. 50.2. The central authority for civil service shall maintain records of execution of court decisions, monitor repayment of damages incurred by the state, and shall file a suit on behalf of the state, in case repayment is not made.

Based on 468 requests from public agencies, prosecutors took part in the civil proceeding of cases which alleged that amount of MNT 34 billion and 190 million damages were caused to the states. Also, prosecutors took part in the 21 civil court proceedings on cases which violated public interests with damages of MNT 1 billion and 601 million. In this regard, prosecutors represented the state in 244 first instance court trials and 178 cases were ruled according to prosecutor's full proposal, 39 cases were ruled taking part of the prosecutor's proposal, thus in total MNT 11 billion and 259 million were paid to the state. Also, prosecutors participated in the 24 trials at the appellate court, 15 cases were ruled with prosecutor's full proposal, 5 cases were ruled taking part of the prosecutor's proposal, thus in total MNT 3 billion and 664 million were paid to the state.

Currently, IAAC is working to establish information mechanism that loss of damages caused by civil servant' decisions and operations to be fully compensated by the wrong-doer (the civil servant). For example, we are preparing to cooperate with the Civil Service Council on mutual exchange of information and to make the civil servant who made non-justified decisions to dismiss or decrease people's position people or illegally, pay for compensation to the victims.

- New Criminal Code and Criminal Procedure Code was adopted on December 3, 2015 and entered into force from June 1, 2017.
- New Law on Crime and Violation Prevention was passed in May 2019. This law shall be effective from January 1, 2020. The current law provides preventive measures against “visible” crimes; In contrast the revised law provides provisions for all offenses both open and hidden.

**To summarize, Mongolia has developed an effective and coherent anti-corruption policy that fosters social participation, rules of law, proper management of communal and public property, ensures integrity, transparency, and accountability, in line with the fundamental principles of its legal system and fulfilling its full implementation.**

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

### 3. Paragraph 2 of article 5

2. Each State Party shall endeavour to establish and promote effective practices aimed at the prevention of corruption.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

The Articles 5 and 6 of the Anti-Corruption Law provided common duties of economic entities, organizations and citizens to raise public awareness and prevent from corruption. The common duties include the government bodies to inform citizens on anti-corruption legislation, and ensure free access to this information by citizens and organizations; involve analytic research and training institutions, and nongovernmental organizations in conducting corruption-related analytic research work, and the production of books, training and promotional materials, training programs and manuals; training and educational institutions that have a curriculum comprising frameworks for legal and ethical subjects shall teach and educate their students about the social harm and dangers of corruption, and actions needed to prevent it, and instill in them in-tolerance for corruption; informal educational institutions and non-academic training and educational economic entities, organizations and citizens shall, consistent with their activities, explain to their students or employees the social harm and threats of corruption, and assist them in acquiring of proper knowledge and awareness of corruption and its prevention; media organizations to regularly disseminate news and information, pursuing publication and editorial policies to promote an atmosphere of in-tolerance of any form of corruption among the general public etc.,;

In this context, the Anti-Corruption Law specifies role of governmental, non-governmental organizations, business entities, legal entities and individuals in the prevention and fight against corruption. This can be said that the fight against corruption is not a sole responsibility of Independent Authority Against Corruption (IAAC) and it is recognized by national legislation.

Article 18 specifies functions and mandate of the Anti-Corruption Agency. In this regard, IAAC organizes nation-wide the anti-corruption education and corruption prevention, coordinates anti-corruption activities, develops a consolidated program, provides methodological guidance and monitors its implementation.

National Anti-Corruption Strategy (hereinafter “the Strategy”) approved by Resolution #51, 2016, by the Parliament. The objectives of the Strategy include to prevent the risk of corruption through strengthening fair, accountable and transparent public service; to strengthen cooperation between the public and the private sectors in preventing corruption; to improve the scrutiny of the citizens and the public in corruption prevention activities, to increase participation and roles of civil society organisations, and to support their initiatives; to engrain ideology of fairness, to organise public awareness activities against corruption in stages, and to enhance education of corruption; to develop international cooperation in relation to combatting and preventing corruption, and to receive and implement the recommendations and guidance of international organisations;

In order to achieve these objectives following activities are being taken among many more:

- to build the capacity of private enterprises and conduct research on possible transfer of certain government rights/powers to private enterprises, and to determine the boundaries of cooperation between the state and the private enterprises;

- to improve the legal framework in respect of restricting cartels and unfair competition;
- to ensure transparency of minerals exploration sector;
- to improve the Law of Mongolia on the Non-Governmental Organisations to ensure transparency of operation and financing of the non-governmental organisations;
- to enable the non-governmental organizations to monitor the operation of government organizations and its administration; to create a mechanism for transferring government's certain rights/powers to non-governmental organisations, and for monitoring the transparency and effectiveness of the transferred government funds;
- to enable non-governmental organisations to file a claim for compensation of corruption to the court regardless of respondent's ownership as long as the interest of government, individual or public is damaged; to establish a legislation that releases the claimant from the obligation to pay the stamp duty fee for the said dispute; and to seek support from non-governmental organisations and professional associations on the investigation of corruption and abuse of power crimes;
- to ensure participation from the citizens, the state and non-governmental organizations in the step by step activities directed to the public to introduce the harms of corruption, and to instil zero tolerance to corruption;
- to organise multilateral activities covering educational organizations and families with purpose to build fair citizens with zero tolerance against corruption, and to include anti-corruption topic in the study curriculum and standards of all level of education;
- to train and support teachers in charge of conducting anti-corruption training courses and campaigns;

In accordance with the Article 6.1.9 of the Anti-Corruption Law, state bodies shall seek comment from the Anti-Corruption Agency before adopting by a state institution of a code of ethics for officials of its particular sector. For example, in 2018, IAAC reviewed draft code of ethics sent by Governor' Offices of Zavkhan province, Uvs province, and Baganuur District, state owned companies such as "Ulaanbaatar Thermal Network", and "Thermal power plant II" etc., and advised the said bodies to add provisions to prevent corruption and conflicts of interest, to reduce the risk of corruption, to eliminate the bureaucracy of public bodies and officials in compliance with legitimate requirements. **The process of seeking comment from the IAAC before adopting own code of ethics has already become a mandatory routine for state bodies.**

According to the Article 18.4.2 of the Anti-Corruption Law If it is determined that conditions conducive to corruption have emerged, and that conflicts of interest exist, the Agency shall insist on revising and invalidating orders, decisions, procedures and rules enacted by state bodies or officials. The Article 6.7 of the law specifies that organizations and officials are obligated to revise, change or invalidate orders, decisions, procedures and rules that cause corruption or conflicts of interest according to the decision of the Anti-Corruption Agency. In 2017, Head of IAAC issued his Decree #A/183 on "Rule for reviewing decree, decision, rules and procedures of state bodies" and IAAC established its Registration system for reviewing, registering and informing the public of decisions of state bodies and officials.

For example: Between 2016-2018, IAAC invalidated 48 illegal rules and regulations approved by Citizens' Representatives or Governors.

In 2018, IAAC, reviewed and invalidated fully and partly over 50 rules and regulations that did not meet related requirements and in non-compliance with laws and regulations, allowed conditions for bribery and bureaucracy, set unlawful, and unreasonable fees. For example:

- Decree #218, 2001, of Minister of Ministry of Environment "Temporary rule for issuing license for land in Special Protected areas"
- Decree #A/219, 2017, of Minister of Ministry of Mining and Heavy Industry "Rule for selection process to grant special license."
- Decree #211, 2011, Agency of Petroleum Oil, "Rule for spending fund to support representatives' activities"
- Protocol of Meeting #28/01, 2009, of Professional Council of General Customs Agency.

- Decree #A/18 of the Head of General Taxation Authority etc.,

Article 29.6.1 of the Criminal Procedure Code states that "Once the cause and condition of the offense is detected, an investigator and prosecutor shall write a remark to take measures to eliminate such cause and condition and attach the copy of it in the case file." Further, Article 29.6.2 stated that "the legal person shall take the said measures specified in the remark and inform the investigator and prosecutor within a month". In this context, investigators of IAAC on a regular basis tracks whether the legal persons are taking measures to eliminate the cause of corruption. For example, IAAC teams worked at 21 organizations namely Ministry of Foreign Affairs, National Center of Transportation, Taxation Departments of Bayangol and Khan-Uul Districts, to check implementation of the remark made by investigators. Within this framework, IAAC teams concluded to send 2 officials as suspects of criminal case and referred to related law enforcement agency, conducted anti-corruption training courses for 108 officials of 7 organizations, gave methodological advices to 10 officials in person, and conducted inspections on activities of 2 organization.

According to the Article 4.1.1.5. "to approve the methodology for corruption risk assessment and to accustom to analyse its implementation" of the Strategy, Head of IAAC issued a Decree #A/40 on "Methodology for Corruption Risk Assessment". By using the new methodology, IAAC conducted the Assessment at 24 ministries and agencies in 2018 and informed the public about its results. In 2019, IAAC conducted the assessment at 15 legal persons from health, education and state-owned . IAAC informs results of the assessment to the organizations and to the public and cooperated together with the organizations to eliminate corruption risks detected. IAAC hires external research institutions and NGOs to execute the assessment.

Moreover, IAAC worked at organizations that have high corruption risks and organized awareness raising and corruption prevention activities:

- Worked at the National Transportation Center, to check every services they provide and decisions they make, and defined job positions that have corruption risks and included the positions under the subjects of the Anti-Corruption law.
- Worked at the State Specialized Inspection Agency and reviewed rules and procedures of inspectors responsible for issuing export and import certificates for animals, plants and its products, and interviewed the inspectors and gave advise to reduce risk of corruption. Also prepared a special television show on the issue and broadcasted to the public.

According to the Article 18.1.6 of the Anti-corruption law, IAAC is obligated to give recommendations on anti-corruption public education and awareness, and corruption prevention, and upon request, instruct and train individuals and legal entities on how to reduce corruption risks in their activities. Within this framework, IAAC between 2016-2018 worked in 21 provinces, 144 soums (sub-provinces), 9 districts of the capital city, 13 ministries and 26 agencies, 26 state-owned legal persons to review challenges, and measures taken to ensure open, transparent public service, and in result, provided Recommendations with 159 issues to the Ministries, with 279 issues to head of provinces and the capital city, and oversees implementation of the given guidance.

According to the recommendations of IAAC, certain measures have been streamlined and appropriate progress has been made. For instance:

- Number of decisions on rules and regulations out of abuse of power, and illegal fees and payments were decreased. (50 decisions were terminated. In the end of of last year, IAAC advised agencies to terminate 48 illegal decisions.);
- State bodies started using hotline for receiving complaint and requests from citizens;
- In 2017, 844 officials sent their Preliminary private interest declarations after they were appointed in the new positions. This number decreased to be 211 in 2018.
- The number of qualified procurement personnel (A-3 certified) increased by 4161 in 2018, with the number of certified persons reaching 12970. (3.1 times higher)
- In 2017 State-owned and partly state-owned legal entities organized 30 percent of its total biddings electronically. Use of of electronic system for bidding in 2018 increased by 62.3 percent from the previous year.

In accordance with the Article 18.1.5 of the Anti-corruption law, IAAC is tasked to Implement public anti-corruption campaigns explaining the gravity and threat posed by corruption on the

society, conduct training and prepare materials to enhance public awareness of this problem, and teach methods to combat corruption.

During the last decade, the IAAC has provided 2-3 hours of anti-corruption workshops for 189 047 people from governmental and non-governmental organizations. For the last 3 years, IAAC organized a full day training courses for 262 times and 21574 people took part in a classroom. 6,286 people took part in a non-classroom training course.

For the purpose of organizing training courses, IAAC established the Public Center in its own building complex. The Public center should become a place where IAAC organizes training courses together with international organizations such as UN, International Anti-Corruption Academy, OSCE, World bank and ADB. Currently, the center is being used as a platform to organize anti-corruption training courses, introduce anti-corruption legal framework and public awareness activities, share information with the public, enlist support of governmental and non-governmental organizations in the corruption prevention activities.

Anti-corruption training courses are also organized for representatives of NGOs, private sector, journalists and children. For instance, in June 2019, IAAC organized a public awareness workshop titled “Friend’s conversation” jointly with Students’ Council, and Mongolian Children’s Palace etc., Also, IAAC published a book, animation and a play titled “Friend’s conversation”.

IAAC organized 2 training courses on Investigative Journalism for journalists jointly with “Independent Education and Development Center” in 2019. Also, IAAC conducted a monitoring with Press council on “Safety of Journalist”.

In addition, the IAAC organizes a series of discussions, meetings and interviews with stakeholders to seek outcomes and policy-making issues, to hear the views of the parties, to develop recommendations for the decision makers. During the 2016-2018, a total of 20 forums and meetings were held at the initiative of the IAAC.

For instance:

- In April 2018, IAAC organized a “Forum on Mutual Legal Assistance-Cooperation in Criminal Matters”. Representatives of Standing Committee on Legal Affairs of the Parliament, the Supreme Court, the General Prosecutor’s Office, the Ministry of Justice and Home Affairs, the Ministry of Foreign Affairs, the General Intelligence Agency, the General Police Department, the School of Law of National University of Mongolia, and the Law Enforcement University participated. A working group composed of participants of the Forum formed and summarized the comments and conclusions made during the forum and submitted recommendations to law enforcement agencies.
- IAAC jointly with StAR of World Bank, organized a Forum of Law enforcement officials in April, 2018, Workshop on National Anti-Corruption Strategy: Cooperation of State Bodies in March, 2017, and Capacity building training on analyzing Income and Asset Declaration in May, 2019. 65 people participated in the training course.
- “Public service and Citizen’s oversight” workshop was organized in January 2019 for the members of Civil oversight subcommittee of IAAC.
- In December 2018, A conference as organized by IAAC discuss issues of corruption in Mongolia, methodologies of research, effectiveness of such research and surveys, and whether there is a difference between corruption perceptions and reality etc.,
- The IAAC organized a Forum on "Corruption in the Education Sector and Its Prevention" in December 2018, involving representatives of government and non-governmental organizations, researchers and citizens. The discussions focused on issues of corruption in the education sector and the provision of preventive measures with participation of all parties. In December, for celebration of the International Anti-Corruption Day, IAAC jointly with the Cabinet Secretariat of the Government, and Mongolian National Chamber of Commerce and Industry, hosted a Forum on "Small and Medium Enterprise Development Fund: Issues and Solutions".
- Article 7 of the Law of Mongolian on the Regulation of Public and Private Interests and Prevention of Conflict of Interest in Public Service specifies common rules for public bodies in the prevention of conflict of interest. This includes the public bodies to establish and enforce

a code of ethics on prevention of conflict of interest; to receive, register and verify private interest declarations and statements in accordance with an established procedure; to establish a procedure for receiving reports on conflict of interest, verify declarations and statements and enforce accountability; to prevent a public official who is in conflict of interest or may be in conflict of interest, from performing his/her official duties; (pls see my remark in the Mongolian original -- jama) to provide a written guidance on the prevention and resolution of conflict of interest to the official who is or may be in conflict of interest; if this law and rules adopted by the Government permit, exercise the discretion to make a decision on whether an official employed by the organization, may hold concurrent positions. If an examination referred to in clauses 7.2.2, 7.2.3-T of this law reveals a violation of the nature of corruption, the case shall be turned over to the Agency Against Corruption for investigation.

- Article 16.3, 16.10 and 29.5 of the law was implemented by Government's related resolutions.
- In 2017, Head of IAAC issued his decree #A/123 on Approving Procedure for notification by the penalized official of the entities concerned and the public at own expense. According to the procedure IAAC received information and decisions from related organizations and collects them in its own database open to the public. In 2019, IAAC registered 12 officials who violated the Regulation of Public and Private Interests and Prevention of Conflict of Interest in Public Service and faced disciplinary penalties.
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In pursuant to Anti-Corruption law and Regulation of Public and Private Interests and Prevention of Conflict of Interest in Public Service, Legal Standing Committee of the Parliament approved the Procedure for registration, verification and filing of official's declaration of private interest, and declaration of asset and income and the forms for declarations by its Resolution #05. Declarant declares his/her Declaration of private interest, and asset and income (hereinafter the "Declaration") in the approved form for declaration and submits to respective agencies with the deadline of the law. Under the laws, person have a duty to provide their income and asset declarations within 30 days since their appointment or election to public office, and updated income and asset declarations by 15 February of each year to the organizations, officials specified in the law. A person shall declare within 30 days any difference equal to or more than his/her 250 monthly salaries that has occurred in his/her assets since the submission of his/her asset declaration. Since 2016, IAAC has been updated its electronic system for income and asset declarations. Since 2017, declarants do not have to print their full declarations, but can submit their declarations electronically and print only a Conformation form which confirms their submission. As a result, we have created not only a new level of research, analysis, reporting on the received declarations but also became able to conduct planning, making comparisons between the declarations.

The procedure regarding electronic registration of the declaration is approved by the head of the IAAC jointly with the Communications Regulatory Commission.

For example: Under the laws, 39742 people in 2017, 40073 people in 2018 and 41382 people in 2019 submitted their Declarations of private interest, and asset and income. IAAC reviews/verifies around 500-600 declarations each year either under planned review or bases on complaints and requests. IAAC conducts its planned verification on organizations or sectors that have high corruption risks. Also, the electronic system is able identify huge amount of increase or any other red flag, so the IAAC's review also focuses on such declarations. Verification process does not only focus on declarant and his/her family members but also declarants related people as well.

In pursuant to the Anti-Corruption Law, IAAC used to publish declarations of only high-level officials to the public in electronic information system. Starting from first quarter of 2018, IAAC started publishing declarations of all declarants in electronic information system

Decree #a/122, 2018 of the Head of the IAAC approved "Procedures for informing citizens about private interests and assets and income declarations of civil servants". The disclosure of information is a good step in the prevention of conflict of interest and anti-corruption activities. It has been improving public oversight, participation, and integrity of civil servants.

Under the Article 23.5. and Article 23.6 of the Regulation of Public and Private Interests and Prevention of Conflict of Interest in Public Service, the organization or official vested with the power of appointment shall receive the preliminary private interest declaration of the nominee for public office and deliver it to the Agency Against Corruption. The Agency Against Corruption shall examine the private interest declaration of the candidate for a public office within 10 working days and advise the competent organization or official concerned of the probability of conflict of interest in the case of the candidate.

For example, IAAC reviewed preliminary private interest declaration of nominees for public office and advised the organizations not to hire people who have the probability of conflict of interest, 40 people in 2015, 39 people in 2016, 39 people in 2018 and 25 people in 2018 respectively.

Under Article 23.7 of the law, the appointing organization or official shall have a duty to abstain from appointing a candidate where it has been established that his/her entry into public office may result in an apparent conflict of interest. If an official appointed such person, the official will face disciplinary responsibility of demotion, or he/she repeats such actions, he/she will be fired.

In accordance with Article 8 of the law, an official shall declare non-existence of a conflict of interest prior to issuing an administrative act, performing the functions of supervision, audit and inquiry, taking punitive measures and participating in the preparation, negotiation and approval of contracts.

For example: In 2017, IAAC registered 32287 officials who declared non-existence of conflict of interest and 850 officials who declared existence of conflict of interest.

To ensure openness, transparency and accountability of civil service, and fulfill people's right to information, IAAC publishes all declarations on our official website. Summarized declarations of 236 high level officials specified in the Article 14.1 of the Anti-Corruption law are published in the <http://www.xacxom.iaac.mn>.

This will lead to increased public scrutiny and participation in the fight against conflicts of interest through the open information to the public, and will have a positive impact on the level of integrity of public officials and increase the effectiveness of the inspection activities, and the process of detecting illegal property.

Furthermore, under the law, declaration of non-existence of conflict of interest are open to the public.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

#### 4. Paragraph 3 of article 5

3. Each State Party shall endeavour to periodically evaluate relevant legal instruments and administrative measures with a view to determining their adequacy to prevent and fight corruption.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

The IAAC reviews the implementation of the National Anti- Corruption Strategy twice a year and presents the results to the respective organizations. Each year, IAAC submitted implementation report, analysis and evaluation of the Strategy to the Parliament.

According to the Article 12.1 of the Law on Legislation, The Government shall approve the following:

- Methodology to draft law and regulation
- Methodology to investigate necessity of law and regulation
- Methodology to assess effectiveness of law and regulation
- Methodology to calculate cost for implementing the law and regulation
- Methodology to review and assess implementation of law and regulation
- Methodology to assess result/outcome of implementation

Moreover, under the Article 41.3 of the law, law makers can return the draft law within 72 hours if not investigated necessity, not assessed effectiveness, not calculates cost for implementation of the draft law ,

Under the General Administrative law, in drafting an administrative norms act, impact analysis shall be made according to methodology of the law. This includes:

- Grounds, demands and goals for the act.
- General structure of the act, regulating affairs and scope.
- Determination of any rights and legal interests that may be affected in any way.
- Whether the draft contain or potentially contain regulations limiting freedom and competition, impeding economic, social and other activity and creating bureaucracy
- Whether there are legally valid laws or administrative norms acts regulating the same issue
- Study is needed of human, technical and economic resources for implementation

Minister of Justice issued his Decree #a/147 of 2018 on approving “Methodology for conducting impact analysis in the process of preparing administrative norms acts”. This methodology entered into force since July 25, 2018. Under the Article 65.2 of the General Administrative law, “If impact analysis were not done, an administrative norms act shall not be registered in the state registration log”.

As Specified in the Article 4.1.5.16. of the Strategy “to introduce a compulsory procedure to conduct anti-corruption analysis and to issue proposals and recommendations on draft laws and other administrative legal acts” related researches and analysis has been done. IAAC teams worked at all ministries, agencies, provinces, districts, state owned and partly state-owned companies and held focus-interviews in terms of ensuring opened and transparency of the civil service and conducted related research.

According to the Article 18.4.2 of the Anti-Corruption Law If it is determined that conditions conducive to corruption have emerged, and that conflicts of interest exist, the Agency shall insist on revising and invalidating orders, decisions, procedures and rules enacted by state bodies or officials. The Article 6.7 of the law specifies that organizations and officials are obligated to revise, change or invalidate orders, decisions, procedures and rules that cause corruption or conflicts of interest according to the decision of the Anti-Corruption Agency. In 2017, Head of IAAC issued his Decree #A/183 on “Rule for reviewing decree, decision, rules and procedures of state bodies” and IAAC established its Registration system for reviewing, registering and informing the public of decisions of state bodies and officials.

For example: Between 2016-2018, IAAC invalidated 48 illegal rules and regulations approved by Citizens’ Representatives or Governors.

In 2018, IAAC, reviewed and invalidated fully and partly over 50 rules and regulations that did not meet related requirements and in non-compliance with laws and regulations, allowed conditions for bribery and bureaucracy, set unlawful, and unreasonable fees

NGOs and donor organizations conduct corruption surveys each year and based on results and recommendations of such survey, corruption prevention activities are planned accordingly.

Experts of Anti-Corruption Network for Eastern Europe and Central Asia of OECD conducted 2<sup>nd</sup> round of monitoring on in 2015 and 4<sup>th</sup> round of monitoring in 2019, on the fight against corruption of Mongolia. Currently, Mongolia is working to implement the given recommendations.

According to the Article 18.1.7, IAAC should conduct fairness and integrity rating of government organizations and state bodies based upon a survey conducted once every two years among individuals and legal entities availing government services and inform the public. Integrity Assessment was conducted once every two years between 2010-2014. Since 2015, it became annual. This assessment is comprised of three types of sub-assessment including external evaluation (from people who received public service), internal evaluation (from public servant who provided public service) and evaluation from the people who takes part in the policy-making process (from experts). Assessment is evaluated from 0-100 points and 100 points illustrates the highest level of integrity. In 2015, 62 organizations, and in 2016, 60 organizations took part in the assessment. In 2018, 62 public institutions are covered and related information was collected from 9411 units across the country as part of this survey. This survey serves as one of the tools to fight against and prevent from corruption and decrease the corruption risk. It is advisable to conduct measures based on the result of the survey

IAAC conducted Corruption Perception Survey of Politics and Law Enforcement Agencies for the 11<sup>th</sup> time this year. This survey was conducted each year since 2008. The Survey on Corruption Perception of Political and Law Enforcement agencies carried out by the IAAC in 2017. The survey respondents were the officials, representing public and judicial authorities, medias, political parties, NGOs, business communities and other research organizations.

According to the survey result, perceived levels of the political corruption increased by 0.32 point from the previous year, and reached 3.97 points, in 2017 (The survey measures corruption as a scale of 1 to 5, where 1 is very clean and 5 is highly corrupt). In 2018, perceived levels of the political corruption were 3.93, decreased by 0.06 point from the previous year. Perceived level of law enforcement agencies was 3.68 according to the survey result.

Experts have found that corruption in Mongolia has become a daily and normal phenomenon in every area of society and society. Corruption is unique in size and form.

IAAC adopted methodology of Children’s Integrity Survey from the Transparency

International Korea. It started since 2008. Children's integrity is evaluated from 1-5 points. 5 should be understood as the highest level of integrity. In 2010, result was 3.29 and in 2019 it reached to 3.91. The purpose of this survey is to introduce the precise and preventive actions that children should take to ensure fairness, and ethics.

According to the Corruption Perception Index of the Transparency International, Mongolia was ranked at 93rd place out of 180 countries. Compared to the score of the previous year, Mongolia got 1 score higher and stepped before 10 countries.

Worldwide Governance Indicators, World Bank: Mongolia's score of Control of Corruption in 2017 was -0.45. In 2016, this indicator score was -0.4.

In the 2019 Rule of Law Index of World Justice Project, Mongolia was scored with 0.55 points and ranked at 53<sup>rd</sup> place out of 126 countries. Mongolia was places at 52<sup>nd</sup> place in the previous year.

**2017: Study of Private Sector Perceptions of Corruption (STOPP)**

<<https://asiafoundation.org/publication/study-private-sector-perceptions-corruption-stopp-survey-2017/>> is an annual survey The Asia Foundation conducts in collaboration with the Sant Maral Foundation in Mongolia. This is the eighth installment, surveying Mongolian businesses based in Ulaanbaatar. Compiling the perceptions of the business community, STOPP illustrates how the business community is affected by corruption.

2018: The Asia Foundation and the Sant-Maral Foundation conducted a nineteenth Survey on Perceptions and Knowledge of Corruption (SPEAK) <[https://asiafoundation.org/wp-content/uploads/2018/09/SPEAK-Survey\\_2018\\_eng.pdf](https://asiafoundation.org/wp-content/uploads/2018/09/SPEAK-Survey_2018_eng.pdf)> in Mongolia, a nationwide survey of citizens in

rural soums, aimags, and the capital city Ulaanbaatar.

The National Statistics Office of Mongolia annually conducts “Survey on Democratic Governance” <[http://1212.mn/BookLibraryDownload.ashx?url=AZS\\_2016-2018.pdf&ln=Mn](http://1212.mn/BookLibraryDownload.ashx?url=AZS_2016-2018.pdf&ln=Mn)> as a module on Household Socio-Economic Survey. The survey assesses citizen's evaluation on public service organizations and corruption situations in Mongolia.

In 2018, National Audit Authority took Customer's satisfaction survey from 34969 tax payers. When asked efficiency of Tax one-stop shop and Hotline services, 57 percent of the respondents (20092 people) said “Enough”, 38 percent (13114 people) said “Average” and 5 percent (1787 people) said “Not enough”. Most of the respondents said that it is better to pay tax by using internet and mobile applications.

These surveys need not only be publicized, but also relevant government agencies need to take action and use its results when making policy and ensuring implementation.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

## 5. Paragraph 4 of article 5

4. States Parties shall, as appropriate and in accordance with the fundamental principles of their legal system, collaborate with each other and with relevant international and regional organizations in promoting and developing the measures referred to in this article. That collaboration may include participation in international programmes and projects aimed at the prevention of corruption.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

IAAC has a full right to cooperate and exchange information with foreign and international organizations on issues of corruption according to Law on Anti-corruption.

Mongolia is putting efforts to actively participate in international and regional cooperation on combating corruption.

For example, Mongolbank (Central Bank) became a member of APG on Money Laundering in 2004. Mongolbank works to ensure implementation of recommendations given by FATF. Financial Intelligence Unit of Mongolbank became a member of Egmont group in 2009. This facilitates Mongolia to implement UNCAC fully.

At agency to agency level, IAAC signed Memorandum of Understanding with the Supreme People's Procuratorate, Anti-Corruption and Civil Right Commission of the Republic of China, Serious Fraud Office of UK, Anti-corruption directorate of the Republic of Azerbaijan, respectively, and provides mutual technical assistance, organize joint training courses, exchange information on criminal cases.

Mongolia joined “Agreement for the Establishment of the International Anti-Corruption Academy (IACA) as an International Organization” and signed MOU with the IACA in 2013.

Furthermore, Mongolia actively works with the following initiatives:

- Istanbul Action Plan, Anti-Corruption Network for Eastern Europe and Central Asia, OECD.
- ADB/OECD, Anti-Corruption Initiative for Asia and Pacific
- Stolen Asset Recovery Initiative of Worldbank and UNODC
- OECD Eurasia Competitiveness Programme

Mongolia entered into Mutual legal assistance Agreement with 17 countries and Extradition Agreement with 9 countries. IAAC sends mutual legal assistance requests on its cases to Central authorities of foreign jurisdictions through Ministry of Justice, General Prosecutor's Office, Supreme Court and Ministry of Foreign Affairs depending on the Agreement signed with the jurisdictions.

On November 20, 2015, Mongolia joined European convention on Extradition. Mongolia already reached into agreement to sign Mutual legal assistance Agreement with EU and Hong Kong and the work is still in the process to be finalized.

The U.S.-Mongolia Agreement on Transparency in Matters Related to International Trade and Investment, or Transparency Agreement, went into effect on March 20, 2017. It sets out clear processes for drafting and commenting on new legislation and regulations and requires strict

transparency related to laws involving trade and investment. Article 7.5 of the Agreement specifies that “The Parties recognize the importance of regional and multilateral initiatives to eliminate bribery and corruption in international trade and investment. The Parties shall endeavor to work jointly to encourage and support appropriate initiatives in relevant international for a”

Example: Everyday IAAC officers study international anti-corruption efforts to explore international anti-corruption best practices, networks and initiatives, and if necessary provide some related information to the public.

Our officers actively and regularly participate in regional and international workshops, seminars and training courses organized by World Bank, UNODC, OECD, IACA, KOICA, and APG among many more.

For the past 3 years IAAC sent 24 mutual assistance requests to 12 jurisdictions. 7 requests to 3 jurisdictions were based on Mutual Legal Assistance Agreement while 17 requests to 9 jurisdictions were based on UNCAC. Among the countries with the Agreement, Korea provided assistance to our request and the other countries confirmed the receipt of our request and asked for additional information. With regards to countries joined UNCAC, Canada provided assistance, Switzerland refused to assist without Agreement, and USA, Australia, Germany did not respond at all.

Costs for translation of mutual legal assistance request and other materials are reflected in the “Fund for assistance to citizens of Mongolia living abroad” as of 2018, by Resolution #179 of the Government of Mongolia.

As of December 10, 2018, received 174 mutual legal assistance requests from both domestic and foreign organizations and took specified actions.

General Prosecutors Office submitted its 2019 budget proposal for sending people to international training courses on fight against money laundering, FATF and APG meetings, to the Ministry of Finance.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

## 6. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(LA) Legislative assistance: please describe the type of assistance**

International assistance and consultant on drafting Law on Protection of Whistleblower

**(PM) Policymaking: please describe the type of assistance**

To make an independent assessment on implementation of the National Anti-Corruption Strategy.

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

## 6. Preventive anti-corruption body or bodies

### 7. Paragraph 1 of article 6

1. Each State Party shall, in accordance with the fundamental principles of its legal system, ensure the existence of a body or bodies, as appropriate, that prevent corruption by such means as:

- (a) Implementing the policies referred to in article 5 of this Convention and, where appropriate, overseeing and coordinating the implementation of those policies;
- (b) Increasing and disseminating knowledge about the prevention of corruption.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Paragraph 1 (a):

The Anti-Corruption Law of Mongolia adopted in 2006 specified in its Article 15.1 that the Anti-Corruption Agency is a special independent government body charged with functions to raise anti-corruption public awareness and education, and corruption prevention activities, and to carry out under-cover operations, inquiries and investigations in detecting corruption crimes, and to review and inspect the assets and income declarations of those required by this law. A structure charged with the duty to conduct anti-corruption surveys and analysis may be formed under the supervision of the Agency specified in Article 15.1 of this Law. The State Great Khural (Parliament) shall decide on the establishment, form, and dissolution of the Anti-Corruption Agency based on recommendations of the National Security Council./Article 15.2 and 15.3 of the law/ Official name of the said anti-corruption agency in Independent Authority Against Corruption of Mongolia (hereinafter referred to as "IAAC")

Independent Authority Against Corruption will carry out the following tasks specified under the law:

- Raise public awareness and prevent corruption /Article 18.1/;
- Verify Income and Asset Declarations of public officials /Artcile 18.2/
- Cooperate within its competence, with managers of state and local self-governing bodies, their officials, NGOs and private business entities in performing their functions. /Article 18.3/
- Conduct undercover operations and cooperate with other agencies in charge of investigative and intelligence-gathering work to conduct investigations to detect and stop corruption offences; /Article 18.4.5/;
- Investigate corruption cases under its jurisdiction; /Article 18.4.7/.

IAAC shall not be in sole responsible of corruption prevention activities but rather give methodological guidance and advices and conduct review and verification, and closely cooperate together with state, local and civil society organizations. IAAC as a main body in charge of anti-corruption across the country is a leading organization in this respect. For this reason, IAAC focuses on to improve and spread corruption prevention knowledge and public bodies closely work together with Prevention and Public Awareness Department of IAAC to get methodological advice and support for implementing and organizing anti-corruption action plan of their respective authorities.

Amendment made in the Anti-corruption law in 2004 enabled legal basis that National Anti-corruption Strategy (hereinafter referred to as "the Strategy") to be adopted by the Parliament and to have Action Plan for Implementing the Strategy. Furthermore, The Parliament adopted the Strategy in 2016, by its Resolution NO 51 and the Government approved the Action Plan for

Implementing the Strategy in 2017, by its Resolution NO 114, thus determined direction of anti-corruption policy and activities across the country and its implementation coordination.

Article 7 of the Strategy stipulates that The Independent Authority Against Corruption shall monitor the implementation process of the Strategy and submit the report to a respective Standing Committee of the Parliament. Director of the Independent Authority Against Corruption shall approve and enforce assessment criteria and methodology to assess the implementation of the Strategy. Organizations implementing the Strategy shall deliver the implementation report to the Office for Implementing the National Anti-Corruption Strategy, no later than February 1 of each year. Independent Authority Against Corruption shall integrate the reports, make an assessment on the activities of the organizations and introduce its assessment results and recommendations to a respective Standing committee of the Parliament. IAAC introduced unified electronic database for the purpose of implementing the Strategy. Therefore, implementing agencies will submit their report and other related documents electronically to the database before 1<sup>st</sup> October 2019. IAAC conducted preliminary review on the implementation of the Strategy of 2016-2018 and the implementation rate is 35.34 percent out 202 activities specified in the Action Plan. The Strategy will implemented for a period of 6 years till 2023 and has 2 phases.

Paragraph 1 (b):

According to Anti-Corruption Law, Independent Authority Against Corruption (IAAC) is obligated to Implement public anti-corruption campaigns explaining the gravity and threat posed by corruption on the society, conduct training and prepare materials to enhance public awareness of this problem, and teach methods to combat corruption and Give recommendations on anti-corruption public education and awareness, and corruption prevention, and upon request, instruct and train individuals and legal entities on how to reduce corruption risks in their activities.

Within this framework, IAAC organizes anti-corruption training courses and public awareness activities. For instance, IAAC organizes different training courses for each target groups specifically on introducing corruption, its cause and harm, preventing from corruption and conflict of interest, explaining related laws and regulations, improving transparency of information of public bodies, ethics of public servants, and registering and verifying income and asset declarations of public servants. Each year 13000 people in average takes part in the said training courses organized by IAAC and improve their knowledge. Duplicated number of people who took part in the training courses will be 8 884 in 2010, 11 798 in 2011, 18 095 in 2012, 22 000 in 2013, 21 239 in 2014, 18 191 in 2015, 13 335 in 2016, 11 345 in 2017, 10 229 in 2018, and 7054 people as of first half of 2019.

One of the objectives of the National Anti-Corruption Strategy (Strategy) is “to engrain ideology of fairness, to organise public awareness activities against corruption in stages, and to enhance education of corruption;” In order to implement this objective, 5 tasks with 10 activities were included in the Action Plan for Implementing the Strategy and currently being implemented.

Other objectives specified in the Strategy included to establish a public service training institution, and to provide possibilities for the public servants to be re-trained, to organize regional anti-corruption training courses and workshops; and to renew the education curriculum for judges and prosecutors, and to improve their professional skills; (Article 4.1.5.3) and to add topics on corruption and abuse of power violations and crimes in the curriculum of the training courses designated to the officers of the law enforcement authorities; (Article 4.1.5.12) have been implemented.

IAAC established the Public Center in order to implement the abovementioned objectives of the Strategy. On December 9, 2017, the International Anti-Corruption Day, the Public Center which can accommodate 170 people at a time was opened. Main purpose of the Center is to organize anti-corruption training courses, spread information and conduct public awareness activities for public servants, citizens, general public and workers of NGOs. In 2018, 8497 people and in the first half of 2019, 4947 people respectively, took part in the anti-corruption training course organized in the Public Center.

In order to improve content and format of the training courses, IAAC closely cooperates with professional organization and research institutions to study needs and requirements of anti-corruption training courses for public servants and renew its course modules and programs on a regular basis.

Moreover, as IAAC does not have any local branches, IAAC started using “train to trainer” module and organized several pilot courses. IAAC and National Academy of Governance jointly drafted course modules on 6 main topics. IAAC also worked together with National University of Mongolia and Mongolian State University of Education to draft and disseminate mandatory study

curriculum on preventing from ethical violation and conflict of interest for public servants. Within the framework of “Towards a Professional and Citizen-centred Civil Service in Mongolia” project by UNDP, IAAC organized its workshops with “train to trainer” module.

The pilot training course to prepare trainers on the study module for Ethics of Public Servant and Regulation of Conflict of Interest was held on December 15-17, 2019. 3 people from each province in total of 63 people and 69 people from the capital city took part in the course. People who took part in the course, now trainers jointly with the IAAC officers co-organized series of training courses for public servants and workers of state-owned legal entities of the capital city and the districts of Ulaanbaatar.

Furthermore, IAAC organizes public awareness campaigns, thematical and series of workshops and open discussions, publishes posters, video advertisements, handbooks, handouts every year. When doing such works, we focus on each target groups such as children, youth, public servants, citizens, and business people, with different approaches and under carefully planned stages.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

Paragraph 1 (a):

See answer above.

Paragraph 1 (b):

For instance, IAAC organizes different training courses for each target groups specifically on introducing consequences of corruption, and its cause and harm, preventing from corruption and conflict of interest, explaining related laws and regulations, improving transparency of information of public bodies, ethics of public servants, and registering and verifying income and asset declarations of public servants. Each year 13000 people in average takes part in the training courses organized by IAAC and improve their knowledge. Duplicated number of people who took part in the training courses was 8 884 in 2010, 11 798 in 2011, 18 095 in 2012, 22 000 in 2013, 21 239 in 2014, 18 191 in 2015, 13 335 in 2016, 11 345 in 2017, 10 229 in 2018, and 7054 people as of the first half of 2019.



## 8. Paragraph 2 of article 6

2. Each State Party shall grant the body or bodies referred to in paragraph 1 of this article the necessary independence, in accordance with the fundamental principles of its legal system, to enable the body or bodies to carry out its or their functions effectively and free from any undue influence. The necessary material resources and specialized staff, as well as the training that such staff may require to carry out their functions, should be provided.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Anti-Corruption Law regulates responsibilities and mandates and ensure independence of the Independent Authority Against Corruption (IAAC), in compliance with Article 6.1 of the UNCAC. Article 16 Basic principles of operation of the Anti-Corruption Agency, Article 20 The Oath of the Officer of the Anti-Corruption Agency, and Article 28, 29, 30, and 31 sets out Political, Economic, Social and Legal guarantees of the Authority, respectively in the law. According to Article 21.1, The Head and the Deputy head of The Anti-Corruption Agency shall be appointed for 6-year terms by the State Great Khural (Parliament), based on the nomination by the President of Mongolia. Nevertheless, 19 members of the Parliament initiated a process to conduct “Open hearing for appointment” of head and deputy head of IAAC. In May, 2019, the Parliament used this process of open hearing when appointing new head and deputy head of IAAC. Please refer to the link for further information: <<http://www.parliament.mn/n/qpco>>.

Under the Article 22 of the Anti-corruption law, The Head and Deputy of The Anti-Corruption Agency shall be relieved from their duties in the following cases:

1. upon his/her own request;
2. if the person is unable to fulfill his/her duties for health reasons;
3. if the term of his/her mandate expires.

Pursuant to Article 31.1 of the Anti-corruption law, It shall be prohibited to detain, incarcerate, arrest, or search the home, office, vehicle or person of the Head and the Deputy head of The AntiCorruption Agency, and other officers, without permission of the State Great Khural.

If the Head or Deputy head of the Anti-Corruption Agency commits a crime that is proven, and if a court verdict enters into force, then she/he shall be dismissed from office from the day of the court verdict. The decision to suspend or not the mandate of the Head or Deputy head of The Anti-Corruption Agency, in conjunction with the criminal charges, or his/her arrest, shall be made within 14 days after receiving a proposal to suspend his/her mandate, submitted to the State Great Khural by the Prosecutor General. It is prohibited to relieve from duties, or to suspend the mandate, or to dismiss from office the Head or Deputy head of The Anti-Corruption Agency on grounds other than those specified in the Article 22.5 of the Anti-corruption Law.

The Special Supervisory Sub-committee of the State Great Khural shall monitor the implementation of the Law on Undercover Operations by The Anti-Corruption Agency. The Prosecutor shall supervise the undercover operations and investigations, and inquiries by the Anti-Corruption Agency according to the bases and procedures specified in the Law on Undercover Operations, the Criminal Procedures Code, and Law on the Prosecution. In order to ensure active public involvement in combating corruption, to voice its opinion, to advise on the condition and implementation of the anti-corruption law, an ad hoc Public Council shall be established under the supervision of IAAC.

Moreover, under Article 14.1.14 and Article 16.4.10 of the Budget Law, Head of the Anti-

corruption agency in relation to the budget of the Anti-corruption agency is a general budget governor and Director of Administration Department of IAAC is a direct budget governor.

When IAAC was first established in 2007 its total number of staff was 90 and it was increased to be 145 in 2012, 172 in 2017 and 232 in 2019 and salary of the employees also increased. This has been an excellent step towards strengthening the capacity of the IAAC.

In 2019, The Parliament by its Resolution NO 67, approved a new structure, human resource and salary of the staff of IAAC, thus the salary of IAAC staff is higher than those of the public servants (except judges) who are carrying out similar tasks.

One of the objectives of the National Anti-Corruption Strategy is to strengthen the capacity of IAAC and within 3 years of its implementation budget of IAAC increased (MNT 8.6 billion in 2016, MNT 10.4 billion in 2017, MNT 14.8 billion in 2018 and MNT 17.1 billion in 2019), thus can be understood as improvement of IAAC's economic guarantee.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

## **9. Paragraph 3 of article 6**

3. Each State Party shall inform the Secretary-General of the United Nations of the name and address of the authority or authorities that may assist other States Parties in developing and implementing specific measures for the prevention of corruption.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Has your country provided the information as prescribed above? If so, please also provide the appropriate reference.**

Mongolia delivered UN a note that stated the Independent Authority Against Corruption that would be assisting other State Parties in developing and implementing specific measures for the prevention of corruption, and the Ministry of Justice and Home Affairs that would be in charge of receiving, executing mutual legal assistance under the UNCAC.

## 10. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

In order to strengthen capacity of the staff of Independent Authority Against Corruption, we have to learn from good practices of other international organizations and countries.

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(CB) Capacity-building: please describe the type of assistance**

- to learn modern and technological developments and methods for corruption prevention, verification process of validity of income and asset declaration of public servants, corruption investigation of other countries;
- to teach our staffs on how to assess risk of corruption, and make planning of prevention and public awareness activities based on the results of the risk assessment, and assess the results of such activities;
- Strengthen capacity of our staffs to work with and analyze big data such as related information, research, and income and asset declarations for their corruption prevention campaigns.
- to learn from good experience of other countries on how they are working with private sector in terms of giving anti-corruption guidance and advice and conduct training courses;
- to learn how to use modern information technology in activities against corruption, and to introduce scientific and advanced technologies in detecting corruption and abuse of power crimes;
- to train some officers specifically on money laundering investigation, asset recovery, and international cooperation;

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

None to report.

## 7. Public sector

### 11. Paragraph 1 of article 7

1. Each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials:

- (a) That are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude;
- (b) That include adequate procedures for the selection and training of individuals for public positions considered especially vulnerable to corruption and the rotation, where appropriate, of such individuals to other positions;
- (c) That promote adequate remuneration and equitable pay scales, taking into account the level of economic development of the State Party;
- (d) That promote education and training programmes to enable them to meet the requirements for the correct, honourable and proper performance of public functions and that provide them with specialized and appropriate training to enhance their awareness of the risks of corruption inherent in the performance of their functions. Such programmes may make reference to codes or standards of conduct in applicable areas.

#### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Paragraph 1 (a):

Mongolia adopted a new Civil Service Law in December 2017 and enforced it in January 2019. The Paragraph 3.1.3 of Article 3 of the Civil Service Law specifies the term “merit” in a following way: “a set of qualifications, including knowledge, education, profession, specialization, skills, experiences and performance outcomes, used as the basis for making decisions on selection, appointment, resignation of candidates for public positions, and for performance appraisal, promotion and rewards of civil servants”.

Furthermore, the Article 7 of the Civil Service Law specifies the following principles to be adhered in the civil service of Mongolia:

- The principles of democracy, justice, freedom, equality, national unity and rule of law as stipulated in Article 1.2 of the Constitution of Mongolia;
- To serve the public;
- To maintain professionalism and sustainability;
- Civil servants other than politically-appointed civil servants, shall refrain from activities of political parties and coalitions;
- To provide Mongolian citizens with equal opportunities to work in civil services;
- To recruit/ appoint a core civil servant based on merits only;
- To be transparent;
- To avoid conflict of interests;
- To abide hierarchical superiority.

In order to ensure efficiency, transparency and objective criteria such as merit principle, the law provides detailed procedures on selection, appointment and promotion of the public official including the content of the exam. According to the new Civil Service Law, examination is divided into two separate types: general and special. General examination is conducted at least once in a year and any person who is wishing to serve in public sector is eligible to take. Persons who passed the general exam is included in the reserve. The special exam is conducted whenever the vacant position is available in any public organization and current employees of public sector and persons

included in the reserve are eligible to take. “The Rule and Requirement for Civil Service Special Exam” was adopted by the 14<sup>th</sup> Decree of the Civil Service Council in 2019, which further regulates the examination procedure. According to this rule any vacant position in the public institution whether it’s senior managerial post or lower hierachial position, must be informed to the Civil Service Council within a week and is announced to the public via official website of the Civil Service Council no less than 10 days prior to the examination date. Generally speaking, the vacant position in any public organization whether it’s higher or lower hierachial post, is filled according to the following order:

- From current employees in civil service according to the promotion procedure by examination;
- From reserve list by examination.

Whether the job applicant is currently holding a post in a public organization or included in the reserve is eligible to take the special exam. Applicant who received highest score is nominated to the vacant position and consequently appointed in that post. It should be noted that promotion to senior position is also done according to the special examination procedure. Prior to the new Civil Service Law, the promotion was done without any examination.

The Paragraph 33.6 of Article 33 of the Civil Service Law specifies the following requirements on the content of the exam for selection for public post:

1. Legal knowledge required for sector or position in question;
2. Analytical skill;
3. Problem solving skill;
4. Mongolian verbal and writing skills;
5. Organizational skill;
6. Leadership skill;
7. Team work skill;
8. Other.

The law classifies the civil services in the following way: political positions; public administration positions; special state service positions; public support service positions. The public administration positions and special state service positions are considered as core public administration positions.

The article 22 of Civil Service Law specifies the generic requirements for recruitment of core civil service positions

- to be a citizen of Mongolia
- to have higher education;
- to have no criminal records of being prosecuted by Court for corruption and power abuse offences specified in the Criminal code;
- to have relevant spoken and written Mongolian language skills;
- to have no mental illnesses or impairments;
- to have served in the Army as obligated by laws.

The article 23 of Civil Service Law specifies the special requirements of recruitment for civil service positions:

- In case of appointment for positions of “top manager” categories, candidates are required to have at least 16 years of employment in the public sector, of which at least 8 years employed in positions of “executive manager”; and attended and completed package qualifications trainings;
- In case of appointment for positions of “executive manager” categories, candidates are required to have at least 12 years of employment in the public sector, of which at least 4 years employed in position(s) of “senior manager”; and attended and completed package qualifications trainings;
- In case of appointment for positions of “senior manager” categories, candidates are required to have at least 8 years of employment in the public sector, of which at least 4 years employed in position(s) of “associate manager”; and attended and completed package qualifications trainings.

In conclusion, the criteria and requirement for entering civil service and examination procedure are clarified in law and further extended in specific rule. The examination is aimed to reveal and identify the aptitude and skill of individuals that is necessary for that specific position. The timely announcement of vacant positions through the official website of the Civil Service Council ensures transparency and equity. The exam papers are evaluated by the machine which makes it independent from human interference and efficient. The interested persons are allowed to supervise the process of examination via camera installed in the exam rooms which further increases the transparency. The rule which governs the examination procedure is clear and detailed and every step of the examination procedure is well defined and regulated by it. Law on Civil Service:

<https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/5.Law%20on%20Civil%20Service%20of%20Mongolia.pdf>

One final note should be made on the ongoing development regarding the new draft Law on Responsibility of Civil Servants. The draft law is aimed at establishing ethical standards and disciplinary norms and respective sanctions in case of the breach of those standards and norms. The scope of the law is targeted to all class of public officials including political, administrative, support and special services. The main sanction types are ethical and disciplinary. The Ethical sanctions are: apology and dismissal on voluntary ground. The disciplinary sanctions are: reprimand, decrease of monthly salary, dismissal from office. The main enforcing organization is Ethical Committee which would operate under the Civil Service Council. However, the this draft law is still under development and discussion at the time of this writing.

Paragraph 1 (b):

The Civil Service Council organizes on-site training and technical assistance to public organizations since the inception of the new Civil Service Law. The last such training was conducted from 9-21 June 2019 in 14 aimags out of 21 aimags. The training covered all public officials in those aimags and the main topic of the training was on the enforcement of the new Civil Service Law and its principles. The Civil Service Council is planning to visit the remaining 7 aimags this autumn.

Furthermore, the content and program for specialized training course for civil servants was adopted by the 37/33th joint decree of the Government of Mongolia and the Civil Service Council in 2019. The training program consists of 4 main topics, 2 credit hours each: "Policy and Strategy", "Administration and Management", "Information Technology" and "Ethics and Human Rights". The course includes corruption related topics such as transparency of budget, internal audit and regulation of conflict of interest. The training is started and planned to be conducted on a regular basis.

The Independent Authority Against Corruption of Mongolia conducts training for public officials subject to disclosure and submission of asset and income and private interest declarations specified by the Anti-Corruption Law and Law on Regulation of Private Interest and Prevention from Conflict of Interest in Public Service on a quarterly basis.

The training is aimed at the following target groups: heads of the units, internal auditors, officials in charge of human resource, legal advisors, procurement officers, officials in charge of finance and budget, and newly appointed officials.

The program of the training consists of the following topics: "Corruption and its impact", "Ethics of the Public Officials", "Methodology for the Corruption Risk Assessment", "The Violation related to the Asset and Income and Private Interest Declaration and Preliminary Private Interest Declaration", "Common mistakes committed during administrative decision making process", "Common mistakes committed during public procurement procedure", "Conflict of Interest", "Corruption Crime and the new regulations", "Prevention from Corruption". The length of the training lasts one day and it's conducted jointly with specialists from the Independent Authority Against Corruption, National Academy of Governance, Otgontenger University, Ministry of Finance, Prosecutor's Office, National Audit Office and others. In 2018, 8497 public officials were covered in this training, out of which 1351 (15.9 percent) were senior managers and heads of the units, 7146 (84.1 percent) executive or lower level officials.

In order to manage workload between public organizations, utilize the knowledge and experience of public officials efficiently and prevent from conflict of interest, "The rule on transfer and rotation of public officials" was adopted by the 34/31<sup>st</sup> joint decree of the Government of Mongolia and the Civil Service Council in 2019. The official who worked at the same organization 10 or more years can be transferred to another public organization based on the initiation of the senior manager according to the consent between the senior managers of those organization. The public official in question can initiate and submit his/her request on transfer to other public organization to senior manager.

The rotation of the public official can be done based on the consent of the public official in question and agreement between senior managers of those organizations for a period of 3 months to 2 years. According to this rule, the rotation shall be done for the purpose of utilizing and sharing knowledge and experience of the public official in question, improving performance of the organization and/or

prevention from conflict of interest. The rotation period can be extended to 1 year. The rotation can be done between any public sector and organizations. After the end of the rotation period, the official in question shall continue his/her old duty in the old organization. In case of liquidation of the old organization, the public official shall be appointed to the similar position in a similar organization.

The transfer and the rotation of the public official is not subject to the specific examination procedure.

In conclusion, there is no special rule for selection and appointment of official for corruption prone sector or posts and the rotation is implemented in order to prevent from possible conflict of interest. The trainings are conducted by various public organizations on various levels and all include corruption related topics and lectures in order to safeguard from bribery.

Paragraph 1 (c):

The article 58 of the Civil Service Law specifies that when determining civil servants' salary, the following procedure shall be applied accordingly:

- determine and enforce salary levels based on job place review analysis by reviewing operational frameworks of the organization, functions and tasks of the job position and related responsibilities;
- salary amounts shall be linked with the average living standards and the average salary of comparable jobs in the private sector.
- If the average salary of civil servants is reduced by 5% or more compared to comparable job positions in the private sector, the Government shall prepare and present a proposal to increase the base salary of the job position to the State Great Khural for approval before deliberation of the budget framework statements, in line with relevant regulations.

In conclusion, the related rules are adopted and enforced starting from 1st January of the 2019 in accordance with the regulation mentioned above and economic development. The clear and detailed regulation on payscale and remuneration and its timely update since the inception of the new Civil Service Law ensures the transparent and equal remuneration in public sector.

Paragraph 1 (d):

The Civil Service Council organizes on-site training and technical assistance to public organizations since the inception of the new Civil Service Law. The last such training was conducted from 9-21 June 2019 in 14 aimags out of 21 aimags. The training covered all public officials in those aimags and the main topic of the training was on the enforcement of the new Civil Service Law and its principles. The Civil Service Council is planning to visit the remaining 7 aimags this autumn.

Furthermore, the article 24 of Civil Service Law specifies the following regarding the package qualifications trainings:

- The content and program of package qualifications trainings shall be approved jointly by the central civil service authority and the Government in consideration with specific features, responsible tasks and functions of given job positions.
- Package qualifications trainings shall be organized by the civil service training institution affiliated to the Government.

The content and program of the package qualification trainings was adopted by the 37/33th joint decree of the Government of Mongolia and the Civil Service Council in 2019. The training program consists of 4 main topics, 2 credit hours each: "Policy and Strategy", "Administration and Management", "Information Technology"

and "Ethics and Human Rights". The course includes corruption related topics such as transparency of budget, internal audit and regulation of conflict of interest. The training is aimed at top, executive and senior managers of the public service.

According to the Law, the category of "top manager" includes the position of State secretary of

ministries and other comparable positions. The category of “executive manager” includes positions of directors of ministerial departments and divisions and other comparable positions. The category of “senior manager” includes positions of unit heads, senior experts and experts of ministries and other comparable positions.

The Independent Authority Against Corruption of Mongolia conducts training for public officials subject to disclosure and asset and income and private interest declaration submission specified by the Anti-Corruption Law and Law on Regulation of Private Interest and Prevention from Conflict of Interest in Public Service on a quarterly basis.

The training is aimed at the following target groups: heads of the units, internal auditors, officials in charge of human resource, legal advisors, procurement officers, officials in charge of finance and budget, and newly appointed officials.

The program of the training consists of the following topics: “Corruption and its impact”, “Ethics of the Public Officials”, “Methodology for the Corruption Risk Assessment”, “The Violation related to the Asset and Income and Private Interest Declaration and Preliminary Private Interest Declaration”, “Common mistakes committed during administrative decision making process”, “Common mistakes committed during public procurement procedure”, “Conflict of Interest”, “Corruption Crime and the new regulations”, “Prevention from Corruption”. The length of the training lasts one day and it’s conducted jointly with specialists from the Independent Authority Against Corruption, National Academy of Governance, Otgontenger University, Ministry of Finance, Prosecutor’s Office, National Audit Office and others. In 2018, 8497 public officials were covered in this training, out of which 1351 (15.9 percent) were senior managers and heads of the units, 7146 (84.1 percent) executive or lower level officials.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

## 12. Paragraph 2 of article 7

2. Each State Party shall also consider adopting appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to prescribe criteria concerning candidature for and election to public office.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

According to the article 10 of the Civil Service Law, the civil service positions are classified in the following way:

- politically-appointed positions;
- public administration positions;
- special state service positions;
- public service positions.

Of which mentioned above, only poilitically appointed positions can be considered as public offices to which the candidatures are elected.

According to the article 11 the Civil Service Law, politically-appointed public positions are as follows:

- President of Mongolia;
- Chairman of the Mongolian State Great Khural;
- Prime Minister of Mongolia;
- Deputy Chairman and member of the Mongolian State Great Khural (The Parliament);
- Member of the Government of Mongolia;
- Chairman of the Office of the President of Mongolia;
- Chairman and vice chairman of the Secretariat of the Government/ Cabinet;
- Advisor to the President of Mongolia, advisor to the Chairman of the Mongolian State Great Khural, and advisor to the Prime Minister;
- All level Governors and aimag / capital city, soum / district Deputy Governors;
- Advisor, assistant and spokesman supporting politically appointed public officials during his/her office term;
- Positions of the secretariats serving the party and coalition caucuses in the State Great Khural;
- other positions provided in relevant laws.
- Positions of chairmen of aimag / capital city / soum / district Citizens' Representatives' Khural and governors of towns and villages may be considered as poliical positions in civil services.

From the above mentioned positions, certain criteria is prescribed to President of Mongolia, member of the Mongolian State Great Khural, positions of chairmen of aimag / capital city / soum /

district Citizens' Representatives' Khural according to the Law on Election.

According to the Article 11 of Law on Election, an eligible voting citizen of Mongolia is entitled to participate in an election without being discriminated against due to nationality, ethnicity, language, race, gender, social origin and status, property, employment, occupation, religion, opinion, and education. Furthermore, the law prohibits putting illegal restriction on an eligible voting citizen of Mongolia to elect and be elected. A citizen having been declared incapable by the court or is placed in prison/penitentiary institution in accordance with the court judgment, must not be qualified to participate in the elections. The following persons are eligible for election candidature.

- Any citizen of Mongolia who has attained the age of twenty five and has the full legal capability and met other requirements set forth in Law on Election shall exercise the right to be elected for a Member of the State Great Hural.
- An indigenous citizen of Mongolia who has attained the age of forty five and has permanently resided as a minimum for the last five years in native land and met other requirements set forth in Law on Election can exercise the right to be elected for the post of President.
- A citizen who has attained the age of twenty five and has registered as a permanent resident of the aimag, capital city or soum within at least 180 days before the polling day and met other requirements set forth in Law on Election could exercise the right to be elected for the tier's Citizens' Representatives' Hural.

Attaining the age as provided in this Law means a citizen's attaining the age on or before the polling day.

The article 12 of Law on Election specifies the further requirements for the election of the State Great Hural and its members. In particular:

- A party registered with the Supreme Court within at least 180 days prior to the polling day is entitled to participate in the State Great Hural election and nominate a candidate.
- Parties may create a coalition and participate in the State Great Hural election and nominate candidates.
- Each party forming the coalition shall meet the requirement of registering with the Supreme Court within at least 180 days prior to the polling day.
- A citizen who has met the requirements set forth in Law on Election shall be entitled to nominate his/her candidacy for a Member of the State Great Hural as an independent candidate.
- The article 13 of Law on Election specifies further requirements for nominating a candidate for Presidential election. In particular:
  - Parties which have seats in the State Great Hural are entitled to nominate their candidates for presidential election either individually or collectively, one candidate per party or coalition of parties.
  - A candidate shall not be nominated twice in same election.
  - Parties without seat in the State Great Hural may support a Presidential candidate.

The article 14 of Law on Election specifies the right to nominate a candidate for the election of the Citizens' Representatives' Hural. In particular:

- A party that has a branch in an aimag, capital city, soum, district and has registered with the Supreme Court within at least 180 days prior to the polling day is entitled to nominate a candidate who has met the requirements set forth in this Law for the election of the Citizens' Representatives' Hural of the aimag, capital city, soum, district.

According to the Law, simultaneous candidacy for a member of both the State Great Hural and the Citizens' Representatives' Hural are prohibited.

There are no definite criteria for the rest of the politically appointed positions as they are positions related to political appointment not election. For instance, the advisors are appointed by the

respective employer while the governor of the aimag is elected by the members of the Citizens' Representative Hural of that aimag.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

### 13. Paragraph 3 of article 7

3. Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.

#### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Mongolia is a semi-presidential democratic republic with a multi-party system. Executive power is exercised by both the President and the Government, and legislative power is exercised by the Parliament - the State Great Hural which has one chamber with 76 seats.

The President is the Head of the State who is elected at general elections from candidates nominated by the political parties that have seats in the Parliament. The President in consultation with the majority party or parties of the Parliament nominates before the Parliament a candidate for the post of Prime Minister, is in charge of foreign relations, is the Commander-in-Chief and chairs the National Security Council.

The Government is the highest executive body. The Prime Minister, in consultation with the President, submits his or her proposals on the structure and composition of the Government and on the changes in these to the Parliament.

Elections are held in Mongolia by direct universal suffrage as follows: Presidential elections every four years with a two-round electoral system, Parliamentary elections every four years with a first-past-the-post system and local elections every four years. Both parties and individual candidates may run in the Parliamentary and local elections.

Currently 28 political parties are registered in the Supreme Court of Mongolia, three of which - Mongolian People's Party (MPP), Democratic Party (DP) and Mongolian People's Revolutionary Party - represented in the Parliament.

Mongolia adopted its National Anti-Corruption Policy in 2016. It enabled public access to information on political parties and elections campaigns' finances is one of the objectives of the Mongolian Anti-Corruption Strategy. The document included the following activities to meet the objective:

- to create mechanism to develop and implement laws and regulations to make funding of political parties and the relevant reports transparent to the public, to improve monitoring mechanism of financial transactions of political parties through regulating sanctions for non-compliance of duties to not receive any illegal financing, to publish report on election campaign funding and to disclose audit evaluation of its financial reports, and to effectively implement respective regulations in the law;
- to establish a system to enable independent monitoring of financial statement of political parties that have seats in Parliament, and to inform result of such monitoring reports to the public;
- to ensure financing from the state budget to political parties accessible to all parties, and to create condition in which the political parties that do not have seat in the Parliament have opportunity to develop and not be influenced by interested parties in terms of financing;
- to improve the Law on Election and Law on Political Party;
- to establish a system for monitoring assets and incomes of managerial level officials of political parties;
- to create legal framework for social interest groups and citizens to participate, influence or lobby in the state policy and decision-making process;
- to increase participation of citizens and civil society organisations' in activities to raise political accountability and to improve transparency.

Political Party financing

Political party financing is primarily regulated by the Law on Political Parties adopted in 2005, and financing of election campaigns is regulated by the Law on Election that was adopted in December 2015 and consolidated multiple laws on different types of elections.

Currently, Mongolia is working on to improve its legal framework on political party financing and financing of the candidature. There are two separate working groups on new package law on improving the regulations on election campaigns and law on political parties. The working group on the new package law on election campaign sent the drafts to the government in order to have their comments. The working group on law on political party have organized first discussion on the draft. The current draft laws on various types of elections include provisions to increase the mandate of the audit body with regard to reviewing election funding and publishing audit reports. Also, the participation of tax authority will be clarified and increased. For instance, if a legal entity gives donation to an election campaign the respective political party will be obliged to include the donation to its financial report. The tax authority will be mandated to review and cross check the financial report of election campaigns with the report on donations and funding released by the audit body and mandated to impose fines if it detects inconsistency with the audit report. However, activities of both working groups are progressing slowly and put on hold due to the ongoing discussions on amendment of the Constitution of Mongolia. It appears, further development on the package law on election campaign as well as law on political party will largely depend on the progress have been made on the amendment to the Constitution. The agenda on amendment to the Constitution is still to be settled as the President of Mongolia proposed his comments on some part of the draft of the amendment to the Constitution. Therefore, at this stage, it is premature to provide meaningful and detailed information on draft laws regarding the election campaign and political parties.

The current law on political parties defines political party as a union of nationals of Mongolia who agreed voluntarily under the objective to exercise political activities, social interest and individual's view in line with the Constitution of Mongolia.

According to the law political parties have the following rights:

- participate in the parliamentary, presidential and local elections,
- initiate and organize demonstrations and other type of activities in accordance with the law protect the rights and lawful interest of its members
- choose freely its operational structure, objective, method of its activities if not stated otherwise own property
- establish contact with political parties, international institutions of foreign countries if there is no contradiction to the national interest other rights stated in the law.

All political parties should be registered in the Supreme Court of Mongolia. Details of financial manager or chief accountant should be provided for the registration.

According to current Law on Political Parties, party's revenues can consist of the following: membership fees; donations from members, natural persons and legal entities; subsidies from the state; sale of merchandise with party's symbols; revenue from publishing and media activities; revenue from renting or selling its own properties; interest on its savings in banks.

Apart from these sources, there is also a practice of parties requesting for contributions from their members for nominating them. According to the report of the International Institute for Democracy and Electoral Assistance (IDEA) the amount of "pledge money" has grown from MNT 20 million (USD 8,100) in 2008 to MNT 80 million (USD 32,400) in 2012 and around 100 million (USD 41,200) in 2016. Amount of the membership fee should be defined by rules of each party, there are no restrictions regarding the maximum amount.

The Law on Political Parties establishes caps on the private donations. The maximum amount of a one-time donation for a legal entity is MNT 10 million (about EUR 4,000), for a natural person MNT 1 million (EUR 400). A donator is allowed to give a donation to one organization of the party not more than two times a year. All parties shall publish information about its donations. The scope of information to be published is not specified in detail.

Donations from the following sources are forbidden: Mongolian citizens under 18 years of age; state and state-related organizations, companies; religious organizations; international organizations, foreign citizens, foreign legal entities, stateless persons; legal entities that are less than one year old after their establishment; anonymous persons or without address specified; legal entities that have bankrupted or have expired bank loans; other persons forbidden so by law. Exclusion of international organisations and foreign legal entities does not cover sponsorship of projects, events in co-operation with international organizations, other foreign political

organizations, funds. All donations and membership fees should be registered in the party's records.

Restrictions on donations should cover not only the party itself but any entity related, directly or indirectly, to the party or which are otherwise under the control of the party.

Maximum amount of the membership fee should be defined in the Law on Political Party, so membership fees are not used to circumvent restrictions on donations.

Prohibition of donations from public organisations or publicly owned companies should be clarified to explicitly cover all companies owned by the state or local self-government, companies in which the state or local self-government has shares, as well as entities established by such companies. It is also recommended to prohibit donations from companies that received e.g. during the previous year a certain amount (e.g. certain per cent of their annual income) of public funding through public procurement or other similar mechanisms (export credits, state aid, etc.).

The Law on Political Parties provides for two types of subsidies to parliamentary parties: a one-time subsidy after the elections and further quarterly payments. A party holding seats in Parliament receives a one-time payment within three months after the election result is announced. Each vote is valued as MNT 1,000 (0,354 EUR). The party which has seats in the parliament also receives quarterly subsidy from the state budget during the parliament's term of office; for each seat in Parliament the party receives MNT 10 million (3500 EUR). 50% of this subsidy has to be spent for the parliamentary election unit areas.

Only parliamentary parties (those that passed election threshold - i.e. 5% at the last national elections in 2016) are eligible for state funding.

Membership fees and private donations shall be kept at one bank account, direct cash donations are not allowed. The Law on Political Parties requires central organization of the party to prepare a consolidated financial statement after the corresponding organizations have made the financial report. Finances of the party should be audited annually, and reports should be published. The Supreme Court of Mongolia is in charge of controlling internal rules and platform of the party with regard to their compliance with the Constitution and the law. Please attached find the form of financial report. This is the form used for reporting about finances of election campaigns, but not funding of political parties. There are no such form for political party financing.

#### Financing of election campaigns

According to the Law on Elections the election expenses should consist of donations, assets of the political party and assets of the candidate. The maximum limit for the campaign expenses should be established by the State Audit Office separately for each election.

Donations to the election campaign are limited to 15 million MNT from a legal person and 3 million MNT from a natural person. Donations from the following sources are prohibited:

- foreign organization /foreign participant of the joint organization;
- international organization;
- state or local self-government organisation; national of foreign country;
- stateless person;
- person under the age of 18;
- state and local administration owned legal entity, legal entity with state or local administration participation;
  - legal entity with tax debt determined by the court ruling and overdue bank loan debt and liquidated legal entity;
  - trade union, religious body and other NGOs; legal entity established less than one year ago.

All transactions should be made through a designated account. An individual or legal entity who is giving the monetary donation shall provide his/her registration number in a bank slip and the receiver shall transfer back the donation which does not meet such requirement. A donation without any return address shall be transferred to the state treasury as stated in the related legislations. If a legal entity has given the donation to election campaign, the donation shall be included in the legal entity's financial and tax statement. The same rule applies in respect to donations made to political parties, however no specific regulations exist in this regard.

The Law on Election requires the financial report to include the following:

- total amount of income deposited in election expenditure account including

incomes from candidate's own assets and incomes from donations;

- donator's first and last name, address, amount of donation, type;
- donator-legal entity's name, address, first, last name of the executive, amount of donation and type;
- category of expense and execution; total balance, location.

The head of the bank or bank's branch where the account is located shall prepare report on transactions and submit it to the election body of that level within 45 days after the election day. The Law on Elections allows providing movable or immovable property as well as services for free as in-kind donations to the election campaigns. One person can donate for a party, coalition or candidate once a year. Fines should be imposed for violation of this rule. In-kind donations shall not exceed the limit envisaged by law.

According to the new legislation the State Audit Office is responsible for auditing party and candidate campaign finances. Within 90 days after the elections the Office is required to publish its reports on contestants' campaign finance, including the names of individuals and legal entities contributing more than MNT one million and MNT two million, respectively.

The Law on Election provides the State Audit Office with the following powers related to the audit of finances of election campaigns:

- conduct audit of and provide conclusion on the expenses of election campaigns of political parties and candidates who participated in parliamentary elections;
- conduct revision and provide confirmation on report on donations given by individuals and legal entities to political parties participating in the parliamentary election during one-year period from the start of the election year;
- conduct audit and provide conclusion on finances and performance of the election expenditure of the candidate for the president if the General Election Commission deemed necessary.

According to the law the campaigners should send their financial reports to the General Election Commission who sends their copies to the State Audit Office, tax authorities and the General Authority for State Registration. Moreover, respective banks should inform the State Audit Office about all donators after the elections.

The Law on Election provides monetary sanctions for violating the rules on financing of election campaigns, but these sanctions have never been applied.

Law on Political Parties: <https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/13.Law%20of%20Political%20parties%20of%20Mongolia.pdf>  
Law on Election: <https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/12.Elections%20Law%20of%20Mongolia.pdf>

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

## 14. Paragraph 4 of article 7

4. Each State Party shall, in accordance with the fundamental principles of its domestic law, endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

In order to adopt, maintain and strengthen system that promote transparency and prevent conflict of interest, three main legislations were adopted and enforced in Mongolia: Law on Glass Account, Law on Regulation of Private Interest and Prevention from Conflict of Interest in Public Sector, Anti-Corruption Law and Law on Information Transparency and Access to Information.

### The Glass Account Law

The Law on Glass Account was adopted in July 2014 and enforced in January 2015. The purpose of this law is to create transparent system ("glass accounts") to enable public monitoring and further disclosure to public regarding decision making processes and activities carried out in relation to implementing budget management for the purpose of efficiently allocating/spending state and local administration budget.

The law is applicable to the following organisations and their officers who have the right to dispose organisation property:

- state or local administration owned legal entities;
- state owned factories;
- companies whose controlling or more shares are vested in the state, local government administration, or their affiliated entities;
- enterprises and organisations carrying out investments, projects, programmes, activities, works and services with state or local administration budget; and
- contractors carrying out state functions on the basis of law and agreement.

The law is also applicable to the following budget and financial planning, performing, implementation and reporting, and other transaction in relation therewith:

- state and local administration budget, social security fund and human development fund budget;
- local development fund;
- special fund of the government;
- procurement of goods, works and services using state and local assets;
- bonds and other financial instruments issued by the government or local administration;
- foreign and domestic loans, and grants from the government and local administration;
- partnerships and concession between public and private enterprises; and
- guarantees and other decisions which create budgetary payables and receivables issued by the government and local administration.

The following public officials are responsible for delivering the glass account information to the public in accordance with the law:

- Public officials who issued the decision/signed the relevant document with respect to bonds, loans, promissory notes, guarantees and other similar instruments issued by the government, public private partnership agreements, concessions, budgets, [documents relating to spending] of [state] property, assets or monies, and [documents relating to] procurement process;
- Public officials who influenced the entity specified in Article 7.1.1 above in

exercising his/her authority;

- Public officials who were the primary and secondary signatories to expenditures and payments in relation to the said documents.

For the purpose of implementing this law, a glass account website was established. The website is operated by the Ministry of Finance. Each organization maintains the information of their financial activities in their separate webpages on the website. The glass account page conducted by the government organizations and information delivered through this source is inspected by the National Audit Office on a regular basis. You can visit the website, which contains the glass account pages maintained by the all organizations subject to the Law on Glass Account here: <https://shilendans.gov.mn/>

The website is not maintained in English, thus some details on the information delivery format and type of information of the glass account web site is provided below.

Organisations shall deliver the glass account information through its website and shall satisfy the following requirements:

- there shall be separate menu for glass account;
- information shall be downloadable and printable;
- name and contact details of the officer in charge issuing references shall be located in the website;
- information and amendments thereto must be regularly updated, outdated information must be transferred and saved in the archive section of the website, and such archived information must be accessible, downloadable and printable.

Information on glass account can be in audio and video formats. However, such files are rarely uploaded with most files are scanned documents. Information regarding local budget and budget governor shall be placed on the relevant information board (the web page of that institution). The Information board shall be accessible by the public and shall be certified by signature of the public officials are responsible for delivering the glass account information to the public.

In 2016, the government approved common standards and regulation for uploading information by its 29<sup>th</sup> decree.

The organisations shall disclose the following information on a regular basis:

- annual budgets, procurement plans and local development fund plans shall be disclosed prior to 10 January each year;
- half-year annual budget performance shall be disclosed within 15 August, previous year annual budget performance shall be disclosed within 25 April, and monthly and quarterly performances shall be disclosed within 8<sup>th</sup> of the following month;
- budget for the following year shall be disclosed within 15 September each year;
- year-end financial report shall be disclosed within 25 April of the following year, and half-year financial report shall be disclosed within 15 August;
- audit report with respect to budget of the general budget governor shall be disclosed within 25 April, and report on implementation measures and activities reflected in such audit reports shall disclosed within 1 July;
- budget savings, surplus and their reasoning shall be disclosed on quarterly basis;

Information on annual budget, procurement plans and local development fund plans are expressed in the following forms:

- criteria figures for annual budget and its performance approved by authorised organisation;
- incomes (income from main activities, and income from state organisations/;
- operational expenditure /salaries, social security commissions, other operational expenditures, asset expenditures, and subsidies/;
- asset expenditures, investment projects and activities, and concession items' list;
- incomes to be accumulated in the state and local administration budget and their structure; and
- financing sources /state budget, local administrative budget and self-budget/.

Information on half-year annual budget performance are expressed in the following forms:

- figures of general budget governor specified in Article 6.2.1, and numeric and

quality figures regarding results and implementations in relation to the same;

- comparison between budget performance and approved budget;

- explanations for budget savings and surplus;

- the budget expenditure savings of the previous year and to specify the purposes

if the surplus of income for auxiliary works was used for rewards;

- amount of grants and aids, and their allocation/expenditure;

- general information regarding selection if the measures reflected in the asset and/or operational expenditures were selected through bidding process;

- investment expenditures shall be disclosed in terms of financing project and objects;

- income, expenditure and investment in relation to special fund; and

- performance of local development fund.

State or local administration owned legal entities and state owned factories are subject to disclosing the information specified below within a week:

- amendments and changes made to the current annual budget;

- amendments made to the organisation's accumulation of payment, commissions and fees for regulatory services;

- tender/bid documents, tender/bid procedures, tender/bid invitations, criteria for the bidders who are participating in the tender/bid, introduction of entities that have been selected as well as those have not been selected, and the legal basis or other reasons for their selection and non-selection;

- names of goods and services procured which have total value of more than five million togrogs, their financing amounts and name and contact details of the relevant supplier;

- information regarding incomes and expenditures, excluding salaries, that have value of more than five million togrogs shall be disclosed transaction by transaction, along with names of the recipients and the relevant transaction notes;

- audit reports, conclusions and other results of monitoring activities of procurement processes;

- amendments to approved employment positions in the organisation;

- bonds, loans, promissory notes, guarantees and other similar financial instruments, public private partnership agreements, concessions, budgets, and [other] decisions relating [state] property, assets or monies which created receivables and/or payables; and

- other information specified in the law.

Ministry of Finance discloses the following supplementary information in addition to those specified above:

- figures relating to incomes, outcomes and investments of the state budget, social security fund budget, human development fund budget, and unified budgets shall be disclosed within 15 July for half-year and 15 January [of the next year] for year-end;

- information regarding government's loans and grants foreign [country] shall be disclosed on a quarterly basis;

- information regarding foreign and domestic debts shall be disclosed on a quarterly basis;

- state budget savings, surplus and their reasoning shall be disclosed on a quarterly basis;

- monthly performance information of unified budget shall be disclosed within 15<sup>th</sup> of each month;

- budget performance and audited consolidated financial report shall be disclosed within 25 August of the next year;

- information regarding securities issued by the government for the purpose of funding state budget deficits.

- concession list and amendments made thereto shall be disclosed within a week after the relevant document is approved;

- concession agreements and amendment thereto shall be disclosed within two weeks after the relevant execution of the agreement or amendment thereof;

- all details, except those regarded as confidential, of the entity party to the concession, concession items, works to be carried out or services to be provided through the concession agreement shall be disclosed within a week after signing the relevant concession agreement;

- information regarding securities issued by the government for the purpose of

investments shall be disclosed on a quarterly basis;

- research and calculations containing comparisons of state unified budget with the macroeconomic indicators on a quarterly basis.

Please see, Law on Glass Account: <https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/7.Glass%20account%20law%20of%20Mongolia.pdf>

Law on Regulation of Private Interest and Prevention from Conflict of Interest in Public Sector

The law was adopted in January 2012 and enforced in May 2012. The purpose of this Law is to ensure transparency and credibility of the civil service by way of strengthening the alignment of public service activities with public interest through prevention and resolution of conflicts between private interests and official duties of a public official.

This Law defines the grounds for prohibitions, restrictions and ethical standards for the activities of a public officials, conflict of interest prevention measures and conflict of interest disclosure and verification procedures, and establishes the degree of accountability for those in breach of the legislation on the prevention and regulation of conflicts between private and public interests in the public service.

This Law applies to the following officials:

- Persons who hold executive or managerial position in the political, administrative or special office of the state;
- Persons who hold executive or managerial position in the public service, or who is the general or senior accountant at such place
- Managers or authorised employees of legal entities in which the state or the local administration has full or partial equity interest;
- The National Council Chairperson and the General Director of public radio and television;
- Managers and executive officers of non-governmental organizations, temporarily or permanently performing particular state functions in compliance with legislation;
- Candidates for President of Mongolia, Parliament or all levels of Citizens' Representative Khural;
- Directors and representatives from all levels of Citizens' Representative Khural; and
- Public officials who have been included in the list approved by an authorised entity.
- The competent official and member of supervisory board of Future Heritage Fund Corporation.

Furthermore, the law provides the following prohibitions and restriction to all persons subject to the law:

- Prohibition related to the use of official information;
- Prohibitions and restrictions on holding bank account, owning movable or immovable asset or establishing legal entity in offshore region;
- Prohibitions and restrictions related to the discharge of official duties;
- Prohibition on Influencing Decision-Making;
- Restriction Related to Advertising;
- Restrictions Related to the Right of Representation;
- Restriction on Receiving Payments;
- Restrictions on Accepting Gifts;
- Restrictions on Acceptance of Donations;
- Restrictions on Holding Concurrent Offices;
- Prohibitions Related to Economic Activities;
- Restrictions on Employment After Public Office;
- Other Restrictions Related to Outside Earned Income such as bonuses from office, work or contract, salary of a member of the Parliament who performs duties of a Cabinet member etc.

The law further specifies persons subject to this law shall file their private interest declarations to the competent authority (The Independent Authority Against Corruption) and provides procedure on registration, keeping, disclosure, verification of private interest declaration. Please see, COI law for detailed information: <https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/2.Mongolian%20Law%20on%20Conflicts%20of%20Interests.pdf>

The Independent Authority Against Corruption will monitor the implementation of the legislation on the regulation of public and private interests and prevention of conflict of interest in public service, and the Legal Standing Committee of the Great State Hural will monitor the activities of the General Council of Courts.

#### The Anti-Corruption Law

The law was adopted in July 2006 and enforced in November 2006. This law applies to the following officials:

- Persons who hold executive or managerial position in the political, administrative or special office of the state;
- Persons who hold executive or managerial position in the public service, or who is the general or senior accountant at such place
- Managers or authorised employees of legal entities in which the state or the local administration has full or partial equity interest;
- The National Council Chairperson and the General Director of public radio and television;
- Managers and executive officers of non-governmental organizations, temporarily or permanently performing particular state functions in compliance with legislation;
- Candidates for President of Mongolia, Parliament or all levels of Citizens' Representative Khural;
- Directors and representatives from all levels of Citizens' Representative Khural; and
- Public officials who have been included in the list approved by an authorised entity.
- The competent official and member of supervisory board of Future Heritage Fund Corporation.

The purpose of this Law is to define the legal basis for anticorruption activities and the anti-corruption body, and to regulate relations connected to them. The law further specifies persons subject to this law shall submit their asset and income declarations to the competent authority (Independent Authority Against Corruption) and provides procedure on registration, keeping, disclosure, verification of private interest declaration. Please see Anti-Corruption Law: <https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/1.Anti-Corruption%20Law%20of%20Mongolia.pdf>

#### Law on Information Transparency and Access to Information

The law was adopted in June 2011. The law shall regulate relations with respect following organizations financed by the state and local budget:

- Secretariat of the State Ikh Hural (Parliament);
- Office of the President;
- Government Cabinet;
- Administrative office of the National Security Council;
- State central administrative or other state administrative organizations;
- Judiciary and prosecutor's offices of all instances;
- Institutions established by the State Ikh Hural with exception of the Government Cabinet;
- Administrative offices of local municipal and self-governing bodies, local government owned or partial ownership legal entities;
- State owned or partially owned legal entities;
- Non-governmental organizations executing the particular functions
- Mongolian National Public Radio and Television organization.

This law does not apply in ensuring transparency in operation of the armed forces, authority of border protection and intelligence organization.

The following principles shall apply in the activities to ensure the information transparency and right to information: - Rule of Law;

- Respect for lawful interests of citizens and legal entities;
- Openness of all information with exception of the state classified information in pursuant to the Law;
- Independence;
- Promptness of the information release activities.

Information transparency consists of the following categories:

- Operational transparency;
- Human resource transparency;
- Budget and financial transparency;
- Transparency in the procurement of goods, works and services by the state and local government.

The citizens and legal entities are entitled to receive the following information except the information prohibited by law to publicly disclose for the purpose of ensuring human rights, freedom, national security, and organization's lawful interest:

- All types of information, documents, agreements and contracts in possession of the organization;
- Information related to the property in possession of the organization; and
- Any other information related to the activities of the organization.

Any official of the organization, with mandate to receive a request for information from the citizen and legal entity is prohibited to make any other requirements not specified in this law.

The request for information by the citizen and legal entity shall meet the following requirements:

- to provide information of his/her full name, address, e-mail address, telephone number, number of national ID or its equivalent and signature in case of a citizen;
- to provide name, address, e-mail address and the state registration number of the legal entity, and the signature of the competent person authorized to represent the legal entity, in case of a legal entity;
- In case a citizen is unable to sign due to a reasonable excuse, others may be authorized to sign on his/her behalf, and if citizens made joint request, all the citizens shall sign or their representative shall sign and attach evidencing document of his/her power to represent.

The rights and obligations of the person who request information are as follows:

- to be equal;
- to choose the means to receive information;
- shall not have obligation to explain the need and ground of requesting information;
- to receive additional reference on issues related to information;
- to have oral explanation made on the content of the information;
- to know the official source of the information;
- if deems his/her right to receive information is violated, to make complaint to the respective organization and official; and
- any other rights specified in the laws.

An information requesting party shall have the following obligations when receiving information:

- to comply with the procedure to receive information specified in the laws;
- not to violate the Constitution of Mongolia, other laws, rights and lawful interests of others when exercising his/her right to receive information; and
- to articulate the required information realistically.

An official who received the request from citizen and legal entity for information examines the request in a following way:

- if the request meets the requirements specified in the Law;
- to check the accuracy of the personal information related to the citizen and legal entity using Number of national ID or its equivalent document;
- to check whether the required information is in the possession of the organization, if not to transfer the request to the relevant organization within 2 business days and inform the citizen and legal entity about the transfer; and
- to check if there is a ground for denial.

In the following circumstances, it is prohibited to disclose the information to others:

- if there are well-grounded reasons that the public release of the concerned information might be detrimental to the national security and public interest of Mongolia;
- if the concerned information is related to matters under review by the Mongol Bank, the Financial Regulatory Commission, state administrative organizations in charge of competition or specialized inspection;
- if it is necessary to protect the secrets of state, organization and individual during the process of inquiry, investigation and prosecution;
- if the concerned information is related to the process of concluding international treaty or agreement; and
- others specified in laws and legislations.

The request shall be turned in on the following grounds in addition to the grounds specified above:

- a request fails to meet the requirements specified above; and
- information mentioned in the request is not in possession of the organization, and it deems impossible to transfer the request to relevant organization.

When turning in the request, the reason and ground shall be clearly specified. An organization is obliged to release information related to the activities of the organization, except the information prohibited publicly disclose as specified in the laws and legislations, to citizens and legal entities. An organization shall establish facility to meet citizens, and a timetable to receive request and publicly inform of it. An organization is prohibited to illegally destroy information in its possession and infringe rights of citizen to exercise his/her right to receive information.

An organization is obligated to release the following information in public domain:

- information that reflects or indicates the existing or potential impact of the activities, manufacturing, servicing, equipment and technology used by the organization on the environment and health of the population;
- information specifying the harmful impact of all types of poisonous or radioactive substances, those are in the possession of the organization, which might damage the environment and health of the population, in the event the procedures of storage and protection is violated; and
- Any other information which is to be publicly disclosed as required by laws.

An organization is obliged to approve the list of its secrets and publicly inform of it. Information may be provided orally, in written and electronically, and citizen and legal entity may examine the information in person. A request whose response can be immediately provided shall be resolved and responded immediately. Unless otherwise provided by laws, information shall be given within 7 business days to a citizen and legal entity who have made the request and if the request is made jointly, the information shall be given to any one of the citizens on their behalf. If deems necessary, period specified in the Law may be extended once by 7 days. Date on which the request was responded, name of the official who prepared the response and the form of the information shall be noted in the record and stored.

A citizen and legal entity may request to receive information in an electronic form. In the event the request is made to receive information in an electronic form, citizen and legal entity shall prepare electronic document and include digital signature, a number of its own national ID or equivalent document and send the information through e-mail. In the event the information is provided to citizen and legal entity in electronic form, the respective official of the organization shall prepare electronic document including his/her digital signature and send the information through e-mail to the person who made the request.

The service fee is applied for citizens and legal entities receives information. The amount of service fee is established by the management of the organization in commensurate with the expenses to be incurred in relation to the release of such information, and the calculation methodology and procedures for the payment of such fees, its discount and waiver shall be approved by the Government of Mongolia. The service fees is not imposed at the same time with other service fees. The amount of service fees shall not exceed the

direct expenses related to release of such information such as copying and delivery through mail.

The complaint may be made on the action or inaction of the organization and official who have violated the rights of citizens and legal entities to receive information to higher level organization or official, the National commission for Human rights, or Administrative court.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

## **15. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(NO) No assistance would be required**

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

None to report.

## 8. Codes of conduct for public officials

### 16. Paragraph 1 of article 8

1. In order to fight corruption, each State Party shall promote, inter alia, integrity, honesty and responsibility among its public officials, in accordance with the fundamental principles of its legal system.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

In order to promote integrity, honesty and responsibility among public officials, the following main measures are implemented:

- Submission of asset and income and private interest declaration by public officials
- Submission of preliminary private interest declaration
- Merit and other objective criteria-based selection, appointment and promotion procedure to public service
- Settlement of disputes in regard to violation of rights of core civil servant and candidates for civil service positions
- Integrity and anti-corruption training

According to Anti-Corruption Law and Law on the regulation of public and private interests and prevention from conflict of interest in public service, the following public officials are subject to declaring their asset and income declaration and private interest declaration respectively:

- Persons who hold executive or managerial position in the political, administrative or special office of the state;
- Persons who hold executive or managerial position in the public service, or who is the general or senior accountant at such place
- Managers or authorised employees of legal entities in which the state or the local administration has full or partial equity interest;
- The National Council Chairperson and the General Director of public radio and television;
- Managers and executive officers of non-governmental organizations, temporarily or permanently performing particular state functions in compliance with legislation;
- Candidates for President of Mongolia, Parliament or all levels of Citizens' Representative Khural;
- Directors and representatives from all levels of Citizens' Representative Khural; and
- Public officials who have been included in the list approved by an authorised entity.
- The competent official and member of supervisory board of Future Heritage Fund Corporation.

The article 10 of the Anti-Corruption Law specifies that “declarers shall submit income and assets declarations...”. According to this law, the declarers shall have the duty to submit to the Independent Authority Against Corruption their income and assets declarations within 30 days since appointment or election to office and annually thereafter by 15 February reflecting due changes throughout duration of his/her office. If the income and assets provided in the statement/declaration have changed by an amount equal to or exceeding two hundred and fifty times the minimum wage after submission, the declarer shall notify the changes within 30 days to the Independent Authority Against Corruption.

According to the Article 23 of the Law on the regulation of public and private interests and prevention from conflict of interest in public service, the aforementioned type of officials shall file private interest declarations to the Independent Authority Against Corruption. An official shall furnish his/her private interest declaration within 30 days after the election or appointment to public office and henceforth update his/her private interest declaration and submit it every 15<sup>th</sup> day of

February throughout the duration of his/her public office to the organization.

Furthermore, any soon to be appointed public officials shall submit the preliminary private interest declaration to the Independent Authority Against Corruption before his/her appointment. Consequently, the Independent Authority Against Corruption shall examine the preliminary private interest declaration of the candidate for a public office within 10 working days and advise the competent organization or the direct employer of the probability of conflict of interest in the case of the candidate. In case of detection of a potential conflict of interest between the soon to be appointed nominant and the public office he/she applied, the employer is notified by the Independent Authority Against Corruption.

The Civil Service Law provides detailed procedures on selection, appointment and promotion of the public official including the content of the exam. According to the new Civil Service Law, examination is divided into two separate types: general and special. General examination is conducted at least once in a year and any person who is wishing to serve in public sector is eligible to take. Persons who passed the general exam is included in the reserve. The special exam is conducted whenever the vacant position is available in any public organization and current employees of public sector and persons included in the reserve are eligible to take. "The Rule and Requirement for Civil Service Special Exam" was adopted by the 14<sup>th</sup> Decree of the Civil Service Council in 2019, which further regulates the examination procedure. According to this rule any vacant position in the public institution whether it's senior managerial post or lower hierachial position, must be informed to the Civil Service Council within a week and is announced to the public via official website of the Civil Service Council no less than 10 days prior to the examination date. Generally speaking, the vacant position in any public organization whether it's higher or lower hierachial post, is filled according to the following order:

- From current employees in civil service according to the promotion procedure;
- From reserve list.

Whether the job applicant is currently holding a post in a public organization or included in the reserve is eligible to take the special exam. Applicant who received highest score is nominated to the vacant position and consequently appointed in that post. It should be noted that promotion to senior position is also done according to the special examination procedure. Prior to the new Civil Service Law, the promotion was done without any examination.

The Paragraph 33.6 of Article 33 of the Civil Service Law specifies the following requirements on the content of the exam for selection for public post:

1. Legal knowledge required for sector or position in question;
2. Analytical skill;
3. Problem solving skill;
4. Mongolian verbal and writing skills;
5. Organizational skill;
6. Leadership skill;
7. Team work skill;
8. Other.

The article 75 of the Law on Civil Service specifies the settlement procedure on disputes in regard to violation of rights of core civil servant and candidates for civil service positions. According to the Law, the central civil service authority shall resolve the disputes between the authorized nominating body / official and candidate for the public position in relation to violation of rights of core civil service candidates for public positions. A civil servant or candidate for a public post shall deliver his/her complaint along with relevant documents to the civil service sub-council or the central civil service authority within 30 days. The central civil service authority shall make decision to open a dispute case within 7 days after the complaint received, and review and settle the dispute within 30 days. If necessary, this timeframe may be extended for 14 days.

Once the dispute settlement case opened, the dispute review committee under the central civil service authority shall exercise the following functions:

- inquire explanations from related persons;
- deploy specialists within the inspection work based on the consent with relevant institution(s);
- inquire necessary information, statistics, explanations, reference statements and other documents from relevant public and private organizations or officials free of charge;
- to assign tasks and requirements with certain timeframes to public and private organizations, individuals or officials to rectify irregularities and breaches detected during inspections and ensure their implementation;
- to transfer the inspection materials and documents to the relevant authority in case the breaches

detected may have features of criminal acts.

- to be fully accountable for inspections, conclusions, explanations, rectification order and accuracy of documents and evidence;
- other functions stated in laws and regulations.

Furthermore the Council members stated above shall comply with legislations, execute official duties justly free of external influences, respect legitimate interests and reputation of the state, public institutions, private entities and citizens, refuse inspecting issues related to spouses, family members and relatives, and conduct the inspections fully.

The integrity and anti-corruption trainings are conducted on a regular basis. Please see the answer given to the Paragraph 1d of the Article 7 for further details.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

## 17. Paragraph 2 and 3 of article 8

2. In particular, each State Party shall endeavour to apply, within its own institutional and legal systems, codes or standards of conduct for the correct, honourable and proper performance of public functions.
3. For the purposes of implementing the provisions of this article, each State Party shall, where appropriate and in accordance with the fundamental principles of its legal system, take note of the relevant initiatives of regional, interregional and multilateral organizations, such as the International Code of Conduct for Public Officials contained in the annex to General Assembly resolution 51/59 of 12 December 1996.

**Is your country in compliance with these provisions?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with these provisions of the Convention.**

Paragraph 2:

Prior to the enforcement of the new Civil Service Law in 2019, public organizations adopted and enforced their own codes of conduct separately based on the example code of the conduct adopted by the Government. Also officials pertaining to public support service (one of the four public position class specified in the Civil Service Law) had no code of conduct at all.

Since the inception of the new Civil Service Law, all public officials pertaining to public administration and public support service follow the uniform code of conduct. Also the exemplary code of conduct of the officials pertaining to politically appointed and state special service shall be established by Law. This was specified in the article 40 of the Civil Service Law in a following way:

- The code of conduct of civil servants holding politically appointed and state special service position shall be established by law.
- The Government shall approve the code of conduct of civil servants holding administrative and support positions based on proposal by the central civil service council.

As a result, "Code of conduct of officials of administrative and support service" was adopted by the 33th decree of the Government in 2019.

According to Article 2 of the "Code of conduct of officials of administrative and support service", the following norms shall be adhered by the public officials in question:

- Adhere the lawful etiquette certified by the Constitution and other legislations by his/her opinion, behavior, word and action;
- Uphold the integrity and avoid conflict of interest;
- Cherish code of statehood, historical and cultural traditions and respect dignity, honor, rights and lawful interest of a person;
- Serve the people sincerely and uphold the honor of the civil service;
- Shall take responsibility for inappropriate performance of official duty;
- Keep neutrality in politics when performing the official duty and avoid any interference of political parties, coalitions or movements; and
- Shall abide hierarchical superiority.

The subsequent articles of the code of conduct of officials of administrative and support service further extends the norms mentioned above in details.

The code of conduct of officials of the politically appointed and state special service positions are not adopted by the Parliament and related researches are ongoing by the designated working group. This code of conduct is will be exemplary and the officials pertaining to politically appointed and state special service positions will adhere various types of codes of conduct based on that exemplary version.

Paragraph 3:

Prior to adoption of the new Civil Service Law and the Code of Conduct of officials of administrative and support service, the working group in charge of development of this law conducted numerous researches, discussions and on-site visits in order to prepare the draft

documents. The main inspirations, examples and good practices are heavily drawn from legal systems of USA, Japan, Singapore, and Canada.

The main changes are as follows:

- The Civil Service Council started to provide public officers holding management and executive positions with recommendations and methodology guidance related to compliance of the code of conduct of civil servants. Prior to the new Civil Service Law, this wasn't the case.
- All public officials pertaining to public administration and public support service follow the uniform code of conduct. All officials pertaining to politically appointed and state special service would follow the exemplary the code of conduct which will be established by Law.
- The main norms to be adhered by the public official of administrative and support service positions are determined.

The code of conduct of officials of administrative and support service specifies two ethical sanctions: oblige to apologize and reprimand. Also according to the code of conduct, the dismissal on a voluntary ground is considered as execution of the ethical responsibility. If the action or inaction committed by the public official is subject to disciplinary, administrative or criminal nature, the corresponding sanctions would be imposed according to the respective law.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

## 18. Paragraph 4 of article 8

4. Each State Party shall also consider, in accordance with the fundamental principles of its domestic law, establishing measures and systems to facilitate the reporting by public officials of acts of corruption to appropriate authorities, when such acts come to their notice in the performance of their functions.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

The article 8 of the Anti-Corruption Law obliges the public officials to report the corruption to Independent Authority Against Corruption. It states that “The officials subject to scope of this Law shall have the duty to immediately report to the Anti-Corruption Agency any corruption-related information obtained while performing their official duties. The implementation of the reporting duty specified in this Law shall not be subject to limitations established by the Law on State, Organization’s and Personal Secrecy.” According to the article 33 of the Law, in case the official violates the duty to report the corruption related information, he/she shall be punishable by sanction of reduced monthly salary by 30 per cent for up to three months in case if the violation is not punishable by other law.

In practice, the Independent Authority Against Corruption receives corruption related information from citizens, private sector, public organizations, the media and other organizations through email, by post, hot line and in person. The entity wishing to give corruption related information can do so anonymously.

Some available statistics on corruption reporting is provided below:

Statistics on number of corruption offences detected from anonymous reports in 2015-2018:

2015-42 anonymous reports received-3 reports deemed as corruption case

2016-31 anonymous reports received-3 reports deemed as corruption case

2017-23 anonymous reports received-4 reports deemed as corruption case

2018-88 anonymous reports received-6 reports deemed as corruption case

During 2015-2018, over 200 reports published on media are investigated and documented.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

## 19. Paragraph 5 of article 8

5. Each State Party shall endeavour, where appropriate and in accordance with the fundamental principles of its domestic law, to establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials.

### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Please keep in mind that some part of the answer to Paragraph 1 of the article 8 is repeated below for convenience.

According to Anti-Corruption Law and Law on the regulation of public and private interests and prevention from conflict of interest in public service, the following public officials are subject to declaring their asset and income declaration and private interest declaration respectively:

- Persons who hold executive or managerial position in the political, administrative or special office of the state;
- Persons who hold executive or managerial position in the public service, or who is the general or senior accountant at such place
- Managers or authorised employees of legal entities in which the state or the local administration has full or partial equity interest;
- The National Council Chairperson and the General Director of public radio and television;
- Managers and executive officers of non-governmental organizations, temporarily or permanently performing particular state functions in compliance with legislation;
- Candidates for President of Mongolia, Parliament or all levels of Citizens' Representative Khural;
- Directors and representatives from all levels of Citizens' Representative Khural; and
- Public officials who have been included in the list approved by an authorised entity.
- The competent official and member of supervisory board of Future Heritage Fund Corporation.

The article 10 of the Anti-Corruption Law specifies that “declarers shall submit income and assets declarations...”. According to this law, the declarers shall have the duty to submit to the Independent Authority Against Corruption their income and assets declarations within 30 days since appointment or election to office and annually thereafter by 15 February reflecting due changes throughout duration of his/her office. If the income and assets provided in the statement/declaration have changed by an amount equal to or exceeding two hundred and fifty times the minimum wage after submission, the declarer shall notify the changes within 30 days to the Independent Authority Against Corruption.

According to the Article 23 of the Law on the regulation of public and private interests and prevention from conflict of interest in public service, the aforementioned type of officials shall file private interest declarations to the Independent Authority Against Corruption. An official shall furnish his/her private interest declaration within 30 days after the election or appointment to public office and henceforth update his/her private interest declaration and submit it every 15<sup>th</sup> day of February throughout the duration of his/her public office to the organization.

Furthermore, any soon to be appointed public officials shall submit the preliminary private interest declaration to the Independent Authority Against Corruption before his/her appointment. Consequently, the Independent Authority Against Corruption shall examine the preliminary private interest declaration of the candidate for a public office within 10 working days and advise the competent organization or the direct employer of the probability of conflict of interest in the case of the candidate. In case of detection of a potential conflict of interest between the soon to be

appointed nominant and the public office he/she applied, the employing organization shall refrain from appointing the nominant until it eradicates the potential conflict of interest.

In order to further clarify determine the procedure regarding the submission of asset and income declaration and private interest declaration as well as preliminary private interest declarations and establish the form of those declarations in question, the Legal Standing Committee of State Great Hural (the Parliament) adopted 5<sup>th</sup> resolution on “Approval of procedure for registration, verification and filing of official’s declaration of private interest, and declaration of asset and income and the forms for declarations” in 25 April 2012.

The resolution established the following documents:

- Procedure for registration, verification and filing of official’s declaration of private interest and declaration of asset and income;
- Forms of official’s declaration of private interest and declaration of asset and income;
- Form for a preliminary declaration of private interests of a candidate to a public office;
- Forms for non-conflict of interest statement and the report on occurrence of conflict of interest;
- List of officials obliged to submit declaration of private interest and declaration of asset and income”;
- Form for declaration of asset and income of an election candidate.

2017 Statistics of the Declaration on Asset and Income and Conflict of Interest:

10440 people - 26.1 percent - public administration positions

13478 people - 33.6 percent - special state service positions

7443 people - 18.6 percent - political positions

4370 people - 10.9 percent - Managerial level officials at public support service positions.

272 people - 0.7 percent - high level officials

4070 people - 10.1 percent - other officials.

Out of the total number of the declarants, 21885 people (54.6 percent) are from Ulaanbaatar city and 18188 people (45.4 percent) are from the countryside.

Out of the total number of the declarants, 16011 people (39.9 percent) are senior level officials.

Number of sanctioned officials in 2017 for failure of declaration submission - 62

Number of sanctioned officials in 2018 for failure of declaration submission - 15

Number of sanctioned officials in 2017 for late submission of declaration - 313

Number of sanctioned officials in 2018 for late submission of declaration - 111

Summary of income and asset of all high level public officials including the President of Mongolia, Chairperson of the Parliament and Prime Minister drawn from their declarations and disclosures are published through websites and media.

The declaration submission started in 2007 by receiving asset and income declaration from the public officials. As a result of enforcement of the Law on regulation of private interest and prevention from conflict of interest in public service in 2013, the Independent Authority Against Corruption started to receive additionally private interest declarations from public officials. Both declarations were received by paper-based format.

In 2011, both declarations were received by the Independent Authority Against Corruption in a electronic format. However, the paper-based versions of the submission carried on regardless. In 2018, the Independent Authority Against Corruption started to receive asset and income declarations and private interest declarations from public officials through electronic system thus leaving old paper-based submission mechanism. Thus, the public officials are only required to fill and sign the Certificate along with electronic submission. This process saves massive amount of papers as well as time. Also starting from 2019, the Independent Authority Against Corruption launched a pilot system for submission of preliminary private interest declaration electronically

from nominants of the public positions.

In 2016, the Independent Authority Against Corruption, streamlined its electronic declaration submission system by adding risk assessment feature. According to this feature, the system automatically assesses the potential risks based on the data stored in the system and provides red flags depending on the certain predefined criteria.

There are another form aside from asset and income declaration and private interest declaration as well as preliminary private interest declaration, which is: statement of non-conflict of interest, report on occurrence of conflict of interest. The official shall use this form for the procedure described below and the form is approved by the 5<sup>th</sup> resolution of the Standing Committee on Legal Affairs of State Great Hural of 2012.

According to the article 8 of the Law on regulation of private interest and prevention from conflict of interest in public sector, an official shall declare non-existence of a conflict of interest for each prior to issuing an administrative decision, performing the functions of supervision, audit and inquiry, taking punitive measures and participating in the preparation, negotiation and approval of contracts. An official shall abstain from performing his/her official duties in a situation where a conflict of interest arises or may arise with regard to his/her official position, and shall file a written declaration to this effect to the relevant competent body or official which in most cases is the employer of the official. Other persons who are knowledgeable of a conflict-of-interest situation may report it to the relevant competent body or official. A competent body or official in receipt of a report or declaration of a conflict of interest, shall immediately issue a written decision on as to whether the official duties in question are to be performed by another official.

An official may be allowed to perform his/her official duties in the following circumstances:

- an organizational unit or an administrative and territorial unit does not have another officer to perform the duties in question, or a body of higher instance is not in a position to appoint a replacement officer;
- the duties in question require highly specialized knowledge and skills and only the officer who has declared conflict of interest can meet these requirements.

If a situation arises suggesting a conflict of interest, the official concerned shall file a written explanation of the circumstances with the relevant competent body or official. Based on the official's explanation and statement on non-existence of a conflict of interest as well as his/her private interest declaration, the relevant competent body or official shall issue a decision and an absence of such a decision shall mean a confirmation of the non-existence of a conflict of interest.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

## 20. Paragraph 6 of article 8

6. Each State Party shall consider taking, in accordance with the fundamental principles of its domestic law, disciplinary or other measures against public officials who violate the codes or standards established in accordance with this article.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

There are two types of sanctions other than specified by the administrative and criminal law: ethical and disciplinary.

The ethical sanctions are imposed on the public officials who violated the 7 norms specified by the Code of conduct of officials of administrative and support service adopted by 33th decree of the Government in 2019. The code of conduct of officials of administrative and support service specifies two ethical sanctions: oblige to apologize and reprimand. Also according to the code of conduct, the dismissal on a voluntary ground is considered as execution of the ethical responsibility.

The Ethical Council shall be established I public organizations with 3-7 members depending on the size of the entity. The head of the institution is responsible for appointing the members of the Council for a period of 3 years based on the proposals employees. The rule of the activity of the Council is also subject to adoption by the head of the institution. The Council issues decision based on the votes of the majority of the members. When choosing the sanction to oblige the public official to apology, the Council shall determine the form of the sanction. When the number of employees of the institution doesn't reach 25, the organization is allowed to establish Ethical Council. In this case, te official responsible for human resource matters is allowed to inspect the complaints and the head of the institution issued the final decision.

The decision on imposing sanction is presented to the public official in question. When the ground for imposing sanction is not verified the issuer of the complaint is notified in written letter. The head of the organization shall support the activities of the Ethical Council.

At this point, the Civil Service Council keeps the unified registration of ethical sanctions imposed on public officials, however there no meaningful statistics on the topic due to fact that the new code of conduct entered in to force just recently.

With regard to disciplinary sanctions, “The rule on imposing disciplinary sanctions on core civil servant and filing complaints against the decision” was adopted by the joint decree 36/32 of the Government and the Civil Service Council in 2019.

According to this rule, there are the following legal grounds to impose disciplinary sanctions to public officials of core civil service (administrative and state special service):

- The generic rules specified in the article 37 of the Civil Service Law
- The prohibitions specified in the article 39 of the Civil Service Law
- Failure to perform the official duty specified in legislations and job description
- Violation of rules on activities of the public organization determined by the legislations and resolutions issued by the Government

According the Article 48 of the Civil Service Law and article 1 of the rule on imposing disciplinary sanctions on core civil servant and filing complaints against the decision, the following sanctions can be applied to core civil servants:

- reprimand;
- 20% reduction of salary for up to 6 months;
- dismissal from the civil service;

- dismissal from the civil service for three years without re-entry appeal;
- other legal grounds.

Disciplinary sanctions provided above may not be imposed in the consecutive order. A core civil servant shall be imposed disciplinary sanctions by the decision of the authorized official who appointed the core civil servant, or the director of the institution in case the civil servant appointed by the institution with participatory management. Any disciplinary sanctions shall not be imposed, if more than 6 month has passed since the disciplinary violation disclosed and more than 12 months has passed since violation occurred. Also two or more disciplinary sanctions shall not be imposed at the same time. In case a core civil servant has not been imposed another disciplinary sanction for a year since the last disciplinary sanction, he/she shall be deemed undisciplined. Disciplinary sanctions imposed to a core civil servant who violated prohibited actions stated in Article 39 of Civil Service Law may become justifiable grounds to resign him from the civil service and to refuse re-entry into the civil service, but not grounds to exempt from criminal charges and other liabilities. If a core civil servant disputes the decision which imposed disciplinary sanction, he/she may appeal and file a complaint to the central civil service authority or the Court within 30 days since the decision notified.

At this stage, there are no statistics on disciplinary sanctions imposed on the public officials as the new legal framework was entered into force recently in 2019.

However, some statistics on complaints and reports regarding ethical violations committed by the public officials working only in agencies under the Ulaanbaatar city governor's office are provided below. Please keep in mind that the sanctions and procedures applied during the settlement of the complaints and reports presented in the statistics below were regulated by the old and then active Law on Civil Service and respective rules.

Received complaints and reports by Ethics Council of the Ulaanbaatar City Governor

2016 - total of 39 complaints and reports, of which 20 complaints and reports issued by citizens, 0 by media, 4 by initiation of Ethics Council and 15 by decisions of the senior managers;
2017 - total of 146 complaints and reports, of which 58 complaints and reports issued by citizens, 0 by media, 10 by Ethics Council, 78 by decisions of the senior managers;
2018 - total of 85 complaints and reports, of which 27 complaints and reports issued by citizens, 1 by media, 7 by Ethics Council, 50 by decisions of the senior managers.

Classification of public officials working in agencies under the Ulaanbaatar city governor's office subject to complaints and reports

2016 - total of 39 complaints and reports, connected to 52 public officials received, of which 0 were related to public political official, 0 were related to state special service official, 34 were related to administrative public officials, 18 were related to support service public officials respectively.
2017 - total of 146 complaints and reports, connected to 205 public officials received, of which 14 were related to public political officials, 47 were related to state special service officials, 121 were related to administrative public officials, 23 were related to support service public officials respectively.
2018 - total of 85 complaints and reports, connected to 90 public officials received, of which 9 were related to public political officials, 6 were related to state special service officials, 54 were related to administrative public officials, 21 were related support service public officials respectively.

Resolution of complaints and reports received by the Ethics Council of the Ulaanbaatar city governor's office

2016 - total of 39 complaints and reports received, 20 conclusions made by the Ethics Council related to complaints and reports, 20 decisions on imposing sanction were issued by the employer.
2017 - total of 146 complaints and reports received, 109 conclusions made by the Ethics Council related to complaints and reports, 105 decisions on imposing sanction were issued by the employer.
2018 - total of 85 complaints and reports received, 34 conclusions made by the Ethics Council related to complaints and reports, 69 decisions on imposing sanction were issued by the employer.

Sanctions applied to public officials working in agencies under Ulaanbaatar city governor's office

2016 - total of 36 officials, of which 20 officials sanctioned, 18 officials were considered as unnecessary to be sanctioned.
2017 - total of 123 officials, of which 105 officials sanctioned, 18 officials were considered as unnecessary to be sanctioned.

2018 - total of 81 officials, of which 69 officials sanctioned, 12 officials were considered as unnecessary to be sanctioned.

Type of the sanctions 2016

Reprimand - 7;  
Reduction of monthly salary up to 20 percent for up to 6 months - 10;  
Dismissal with restriction to enter public office for a period of 1 year - 3.

Type of the sanctions 2017

Reprimand - 47;  
Reduction of monthly salary up to 20 percent for up to 6 months - 53;  
Dismissal with restriction to enter public office for a period of 1 year - 5.

Type of the sanctions 2018

Reprimand - 36;  
Reduction of monthly salary up to 20 percent for up to 6 months - 28;  
Dismissal with restriction to enter public office for a period of 1 year - 5.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

## **21. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(NO) No assistance would be required**

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

None to report

## 9. Public procurement and management of public finances

### 22. Paragraph 1 of article 9

1. Each State Party shall, in accordance with the fundamental principles of its legal system, take the necessary steps to establish appropriate systems of procurement, based on transparency, competition and objective criteria in decision-making, that are effective, *inter alia*, in preventing corruption. Such systems, which may take into account appropriate threshold values in their application, shall address, *inter alia*:

- (a) The public distribution of information relating to procurement procedures and contracts, including information on invitations to tender and relevant or pertinent information on the award of contracts, allowing potential tenderers sufficient time to prepare and submit their tenders;
- (b) The establishment, in advance, of conditions for participation, including selection and award criteria and tendering rules, and their publication;
- (c) The use of objective and predetermined criteria for public procurement decisions, in order to facilitate the subsequent verification of the correct application of the rules or procedures;
- (d) An effective system of domestic review, including an effective system of appeal, to ensure legal recourse and remedies in the event that the rules or procedures established pursuant to this paragraph are not followed;
- (e) Where appropriate, measures to regulate matters regarding personnel responsible for procurement, such as declaration of interest in particular public procurements, screening procedures and training requirements.

#### Is your country in compliance with this provision?

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Paragraph 1 (a):

Regarding to the public distribution of information relating to procurement procedures and contracts, Mongolia has developed e-procurement system for public procurement <tender.gov.mn>. It distributes the information about procurement planning, bidding, contract performance and laws, e-shopping etc.

Moreover, Mongolia adopted its National Anti-Corruption Strategy in 2016. Enhancing legal framework of public procurement process, to increase its transparency, accessibility and fairness, to lower the costs of organising a bid/tender, and to improve monitoring and accountability of the public procurement process is one of the objectives of the Mongolian National Anti-Corruption Strategy. The document included the following activities to meet its objective:

- to fully transfer the tender process into an electronic format;
- to renew the complaint and dispute review procedures and to disclose to the public the results of complaint reviews with regards to tender process;
- to improve procurement planning policy and process, and to create legal framework for disclosing such plans to public for preliminary discussion;
- to specify the methods and criteria for signing a concession, and a direct contracting. 7
- to improve financial accountability, to tighten the penalties for individuals or legal persons which failed to comply with their contractual obligations, to create mechanism for improving independent monitoring system;

Procurement system is generally regulated by the Public Procurement Law of Mongolia and other numerous regulations in order to establish appropriate system of public procurement. In this regard, following procedures are in effect:

Disclosing a bid invitation to the public (Public Procurement Law, Article 21): (1) the

procuring entity shall publicly advertise the invitation for bids, through national circulation daily newspapers, e-procurement system for public procurement and other forms of mass media; (2) the procuring entity shall advertise detailed information of the bidding openly and transparently and provide to any interested entity without delay; (3) the bid invitation for foreign bidders shall be published through publications, media outlets in a language widely used in international trade. (4) the procuring entity shall post the invitation for bids as well as a result of the bid evaluation each time, on the e-procurement system. (5) additional information or clarifications of the bidding document may be requested from the procuring entity in writing, by bidders at least 5 working days prior to the bid submission deadline.

Contract award notification (Public Procurement Law, Article 29): The procuring entity shall award the contract to the bidder whose bid selected as “lowest evaluated substantially responsive” bid, and inform the decision to that bidder and bid rejection justifications to the other bidders, simultaneously.

Disclosing a bid result (Public Procurement Law, Article 29): The procuring entity shall disclose a bid result on e-procurement platform.

When procuring entity disclosure information about bidding result, the following information must be included: Names and related information of bidders; Bidder’s qualification or description of disqualification of a bidder; Financial proposal of a qualified bidder (comparison price); Name of a bidder who submitted substantially responsive bid (contract amount); Whether or not complaint filed during a bid evaluation, if so explanation of nature and resolution of it; Funding source; Other required information.

Paragraph 1 (b):

According to the Public Procurement Law, following procedures are being followed:

Information should be included in a **bidding document** (Article 21 of Public Procurement Law): Bidding documents should include all necessary information required for bidders to submit a responsive bid, requirements to bidders, instructions to bidders, criteria and methods for selecting a qualified bid, contractual terms and conditions proposed by the procuring entity, technical specification and drawing, templates of bidding documents, and terms of reference in the case of consulting service.

Information must include in a **bidding invitation** (Article 21 of Public Procurement Law): definition of the procuring entity;

a brief description of the works, goods, and services to be procured; the address at which bidding documents or other information are available and bids to be submitted; price of bidding document; special requirements for bidding; deadline for bid submission; bid opening date and time; whether to allow participation of foreign entities or not; whether domestic preference was granted. Also, law specified that (19.1. The procuring entity shall prepare bidding documents according to standard bidding documents, contract templates, or other procedures and methodology approved by the Cabinet member in charge for budgetary issues.)

(For more information, please see Article 19, 21 of the Public Procurement Law)

Paragraph 1 (c):

In 2008 and 2012, the Minister of Finance adopted the guidelines in order to facilitate the subsequent verification of the correct application of the rules and procedures. “Bid evaluation guideline for goods and works” approved by Finance Minister’s order #194, September 28th, 2012. “Bid evaluation guideline for consulting service” approved by Finance Minister’s order #249, June 20th, 2008. Above mentioned bid evaluation guidelines for goods-works and consulting service are in effect and used in public procurement which provides detailed instructions and calculations for bid evaluations.

Paragraph 1 (d):

Bidders are allowed to challenge decisions made by the lower level entity and file complaints to the upper ladder including Procuring entities, Fair Competition and Consumer Protection Agency, Ministry of Finance, and Administrative Court (Article 54-56, Public Procurement Law). Also, “Procedure for reviewing and resolving complaints from bidders” approved by Finance Minister’s order #131, June 4th, 2019.

Paragraph 1 (e):

Public employees and citizens who were appointed to be a member of a bid evaluation committee are mandated to declare their qualification of following requirements:

1. I do not have conflict of interest with bidders participating in this bid. If such condition may exist, I will notify it and refuse to be member of the evaluation committee.
2. If a bidder tries to influence the evaluation result through bribe and pressure, I will inform the procuring entity and law enforcement organizations.
3. My participation and contribution in the evaluation committee will be independent and won't be used for my personal gain.
4. If an incident specified in 1 and 2 above occurs during the evaluation stage after the establishment of the evaluation committee, I will notify the procuring entity immediately.

Members of evaluation committees are required to be specialized and trained in public procurement regulations and procedures and the procedure for public procurement training and certification is in effect. In compliance with this procedure, public employees in charge public procurement and members of evaluation committees are trained by certified public procurement training institutions (NGOs). "Procedure for structure, activity and remuneration of evaluation committee" approved by Finance Minister's order #212, September 30th, 2014.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

Paragraph 1 (a):

All public organizations have to carry out their procurement activities based on the Public Procurement Law and the Procedures on e-Procurement. According to the regulations, public organizations must publish their bidding invitation and other related documents on the e-Procurement System [www.tender.gov.mn](http://www.tender.gov.mn) <<http://www.tender.gov.mn>>. Every enterprises and citizens are able to access the e-Procurement System, with the free of charge. After they have been informed, they will be able to pay the bidding fee in order to participate if they meet the requirements.

Examples can be seen in e-procurement system of Mongolia. As of the December 11 of 2018, 9456 electronic bidding invitation had published, which accounted for 83.3% of total 10697 bidding invitation announced on the e-Procurement System. Then the numbers of electronic bidding invitation on the e-Procurement System have reached to 11835 (97% of the total bidding 11835) in the July 30 of 2019.

(For more information, please see Article 21, 22, and 29 of the Public Procurement Law)

Paragraph 1 (b):

In case of the law implementation procedure, all procuring entities prepare their tender documents and technical specifications in advance and announce it through the e-Procurement system <tender.gov.mn> and the daily newspapers. For more information, please see Article 19, 21 and 22 of the Public Procurement Law.

Also, the scope of the Public Procurement Law is defined in the Article 3. The Ministry of Finance is in charge of administering the government policy, methodology, and oversight on procurement. According to the sub-clause 21.4 of the Public Procurement Law, the procuring entity shall post the invitation for bids as well as a result of the bid evaluation each time, on the website <www.tender.gov.mn>.

On the other hand, according to the new anti-corruption strategy and action plan public, entities must ensure transparency of procurement as above mentioned. Moreover, Mongolian Parliament adopted a new law called "Law on Glass Accounts" in 2015. The law enables public monitoring and disclosure to public regarding decision making processes and activities in relation to implementing effective budget management and transparent public procurement. Based on the law, Government

of Mongolia has developed the Portal Site of Glass Accounts <<https://shilendans.gov.mn/>>. Please see, Law on Glass Accounts: <https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/7.Glass%20account%20law%20of%20Mongolia.pdf>

Paragraph 1 (c):

According to the regulations, the procuring entity should specify the procurement procedures and methods for each procurement of goods, works and services in their particular procurement plan that publishes on e-procurement system. Also, it is possible to organize the bidding after the plan is reviewed by the respective Budget Governor and the Ministry of Finance.

(For more information, please see the Public Procurement Law)

Paragraph 1 (d):

For instance, (as of July 1, 2019) a total of 946 business entities participated in the bidding process organized by the Government Agency for Policy Coordination of State Properties. Of these, 16 companies have submitted its complaint against the bidding. Ministry of Finance has received 8 complaint: (Procuring entity's decision is justified-2, Procuring entity's decision is not justified (need to re-evaluate)-5, Refrain from their complaint-1). Fair Competition and Consumer Protection Agency has received and decided 8 complaints in the period, with competition is not restricted-6, with limit competition-2. There have been no complaints in courts.

Note: The Government Procurement Agency was dissolved and integrated into the newly formed Government Agency for Policy Coordination of State Properties after the parliamentary elections in June 2016.

Paragraph 1 (e):

Ministry of Finance has a right to outline the training level, quality, and standards for procurement, jointly with the state central administrative body in charge of education issues, provide support and assistance in organizing the training, approve guidelines on conducting training for procurement professionals (Article 52.1.11 of the Public Procurement Law).

(For more information, please see Article 47, 50, and 52 of the Public Procurement Law)

For example, as of the August 2, 2019, 300 citizen who successfully passed the specialized examination have worked as a member of evaluation committees that organized by Government Agency for Policy Coordination of State Properties.

### 23. Paragraph 2 of article 9

2. Each State Party shall, in accordance with the fundamental principles of its legal system, take appropriate measures to promote transparency and accountability in the management of public finances. Such measures shall encompass, inter alia:

- (a) Procedures for the adoption of the national budget;
- (b) Timely reporting on revenue and expenditure;
- (c) A system of accounting and auditing standards and related oversight;
- (d) Effective and efficient systems of risk management and internal control; and
- (e) Where appropriate, corrective action in the case of failure to comply with the requirements established in this paragraph.

#### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Paragraph 2 (a):

Mongolian Parliament adopted the Budget Law (revised edition) in 2011. Purpose of the regulation is to ensure fiscal stability, enhance the efficiency and to increase citizens' participation in the budgeting process. In accordance with the Budget Law of Mongolia, the all principle of budget approval, budgeting methodology and methodology is fully complied with at all levels. Mongolian Parliament passed a new law called "Law on Glass Accounts" in 2015. The law enables public monitoring and disclosure to public regarding decision making processes and activities in relation to implementing effective budget management and transparent public procurement. Based on the law, Government of Mongolia has developed the Portal Site of Glass Accnts <<https://shilendans.gov.mn/>>. Please see, Law on Glass Accnts: <https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/7.Glass%20account%20law%20of%20Mongolia.pdf>

Paragraph 2 (b):

It is in line with the Budget Law of Mongolia, which provides for the reporting of budget revenues and expenditures and is fully compliant with all levels. The general budget governor have to prepare his/her budget execution report and consolidated financial statement in accordance with International Accounting Standards. Please see Chapter 8 of the Budget Law.

Paragraph 2 (c):

In Mongolia, State audits and internal audit units control budget execution and performance. For example direct budget governors prepare and submit quarterly budget execution reports and financial statements by the 15<sup>th</sup> of the first month of the next quarter to the respective upper level budget governors, submit annual budget execution reports and financial statements by the 25<sup>th</sup> of January of the following year to state audit bodies and audited financial statements to the respective upper level budget governors by the 25<sup>th</sup> of February.

Moreover, central budget governors prepare and submit semi-annual budget execution reports and consolidated financial statements to the general budget governor no later than the 25<sup>th</sup> of July and annual budget execution reports and financial statements to the state audit body no later than the 5<sup>th</sup> of March, and submit audited reports to the general budget governor no later than the 25<sup>th</sup> of March of every year. For more information, please see the Budget Law.

According to the Accounting Law, enterprises are required to comply with the following standards. These range from International Financial Reporting Standards (IFRSs), International financial reporting standards for SMEs (SMEs-IFRS) to International Public Sector Accounting Standards (IPSASs).

Paragraph 2 (d):

Each general budget governor has established an internal audit unit and employ an internal auditor aimed at controlling enforcement of legislation, conducting financial inspection of budgetary assets and liabilities, revenues and expenditures, programs and activities and investment, and making assessments, evaluations and recommendations and proposing risk management measures, in accordance with Article 69 of the Budget Law.

Paragraph 2 (e):

According to the Article 20.2.10 of the Law on Accounting, the Chief Accountant has the right to revise the professional correction action of the errors reported on the audit by the auditors and make adjustments to the financial statements (Article 20.2.10 of the Law on Accounting);

It also regulated that the person or legal person who violates the accounting law will face liability specified in the Criminal Code or Violation.

All level court decision related to the above mentioned regulations are published by in judicial decision website and accessible for public <[www.shuukh.mn](http://www.shuukh.mn)>.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

Paragraph 2 (a):

Public polls were conducted in local levels on programs, projects and activities of Local Investment Funds and ways to implement them.

(For more information please see Chapter 5 of the Budget Law of Mongolia, <http://www.iltod.gov.mn/?p=2403>)

In case of the procurement, the procuring entity have to announce the procurement plan to the public through mass media within a month after the approval of state budget.

Paragraph 2 (b):

Furthermore, the law called Glass Accounting has been adopted and enforced since 2014, in order to ensure transparency and transparency of decisions and activities to implement the budget management in order to efficiently manage state and local budgets and state and local property. According to the law, state organizations and state-owned entities have to publish information on budgets to the public on a regular basis on the website of Glass Accounting <<https://shilendans.gov.mn>> . Also, Mongolia has been implementing the Law on Transparency of Information and Right to Obtain Information since 2011.

Paragraph 2 (c):

In the field of accounting, for instance, the Ministry of Finance leads and organizes the following measures: Capital valuation policy and coordination, Public sector accounting policy and methodology, International Accounting Standards and Methods, Business accounting policy and methodology, Reconciliation of the entity's financial statements, Audit operational policies and regulations.

According to Article 70.4 of the Law on State and Local Property, property census of state-owned legal entities is carried out by the state administrative body in charge of state-owned policy and regulation within one fourth of the first 4 years of the Government's first 4 year period.

Paragraph 2 (d):

In order to ensure independence, the State Central Administrative Body Responsible for Finance and Budget Matters provides operational and methodological management of the internal audit units.

Relevant to policy documents are follows:

- Policy document implementation and monitoring and evaluation of administrative organization, approved by Government act No. 89, 2017
- Regulation on monitoring and evaluation for ministry's internal functional departments, approved by State Secretary Order No. 191, 2014

- Guideline on monitoring and evaluation of subsidiary agencies of The Ministry of Finance, approved by an order No. 143 of the Minister of Finance, 2018
- Regulation on monitoring and evaluation for international financial aid and funding project activities under the responsibility of the Minister of Finance, approved by an order No. 242 of the Minister of Finance, 2010

## **24. Paragraph 3 of article 9**

3. Each State Party shall take such civil and administrative measures as may be necessary, in accordance with the fundamental principles of its domestic law, to preserve the integrity of accounting books, records, financial statements or other documents related to public expenditure and revenue and to prevent the falsification of such documents.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

In this regard, following procedure is in effect:

Bidders who submitted falsified or misleading information in their bid are sanctioned not to participate in public procurement bids for 3 years. The state central administrative body in charge of budget, keeps the black list of the economic operators sanctioned not to participate in bidding.

According to Accounting law, business entity or public organization should keep the accounting records, financial statements and other related documents for at least 10 years.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

## 25. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

According to Government's Action Plan of 2016-2020 (Section 5.1.17 "Government services will be implemented in a timely manner and transmitted electronically by providing electronic services through transparent, accessible, paperless", and Section 5.2.2 "The Project and the tender awarding procedures shall be publicly disclosed"), Government Agency for Policy Coordination of State Properties is fully developing the electronic procurement system of Mongolia ([www.tender.gov.mn](http://www.tender.gov.mn)) in compliance with the law and regulations.

The server's capacity for Electronic Procurement System was filled 6 times in 2018, taking immediate action on every occasion, but on January 17, 2019, some hard disk drives were damaged, which result in for 2 days delay in the normal functioning of the system.

Due to increase in the number of bids and data storage on the server, it is required to enhance the server capacity of the Electronic Procurement System.

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(CB) Capacity-building: please describe the type of assistance**

Due to increase in the number of bids and data storage on the server, it is required to enhance the server capacity of the Electronic Procurement System.

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

None to report.

## 10. Public reporting

### 26. Subparagraph (a) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

(a) Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and, with due regard for the protection of privacy and personal data, on decisions and legal acts that concern members of the public;

#### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Mongolia complies with this Article of the Convention by Law of Mongolia on the Information Transparency and Right to Information. The law adopted and came into force on June 11, 2011. The purpose of this law is to regulate relations pertaining to ensuring transparency of the state, and rights of citizen, legal entities to seek and receive information. The law regulates relations with respect to all organizations financed by the state and local budget except armed forces, border and internal troops and intelligence authority.

Organizations subject to the law are obligated to ensure transparency of the following categories of information:

- Operational transparency;
- Human resource transparency;
- Budget and financial transparency;
- Transparency in the procurement of goods, works and services by the state and local government.

Unless otherwise provided in the laws, organization in the scope of this Law shall take the following measures to ensure its operational transparency:

- to place the organizational mission, strategic objectives, priority areas and measures implemented to achieve those objectives and priorities, outcome, and organizational structures on its website or information board in an easily understandable manner and update regularly;
- to place the legislations, rules, procedures and the guidance on its website and information board in an easily understandable manner and update regularly;

- to place any policy document or draft decision that establishes public norms on its website in an easily understandable manner not less than 30 days, to receive comments and proposals from the relevant governmental and non-governmental organization, professional experts, scholars and citizens, and to incorporate the proposals if deems grounded;

Citizens and legal entities shall be entitled to receive the following information except the information prohibited by law to publicly disclose for the purpose of ensuring human rights, freedom, national security, and organization's lawful interest from the organization specified in the article 3.1 of this Law;

- All types of information, documents, agreements and contracts in possession of the organization;

- Information related to the property in possession of the organization; and
- Any other information related to the activities of the organization.

Furthermore, Mongolia implements this part of the convention by other laws such as Constitution, Anti-Corruption law, the Regulation of Public and Private Interest and Prevention of Conflict of Interest in Public Service, Civil Service Law, General Administrative Law, Glass Account Law, Law of Confidentiality on State and Service, Law on Personal Secrecy, Law on Institutional Secrecy, Law on procurement of goods, works and services with state and local funds.

General Administrative Law, enacted on July 1, 2016, specified to keep all types of information except the ones prohibited by law to be disclosed to the public, to be open and transparent to the public. Under the law, a party who is taking part in the decision-making process has right to obtain information, copy related documents, see any necessary archive materials and information related to a person who is making the decision from government agencies, within the framework of related procedural rules.

The new law introduces a new procedure called “Hearing” which requires the governmental agents and agencies to conduct a hearing to introduce the concept and purpose of a new decision they are intending to adopt and the hear opinion from the affected population.

Under the law, draft Administrative acts should be available on websites or bulletin boards within 30 days to receive opinions from the public. If the draft administrative act is considered to violate public interest and human right, a hearing should be conducted in order to hear public opinion, ensure participation of affected parties and reflect their opinions in the act.

The Law on Public Hearing was adopted in 2015 and entered into force from January, 2016. The purpose of this law is to ensure citizen participation in public administration and governance. Prior to making any decision, the administrative bodies or their officers are obliged to listen to, therefore to collect the supportive or counter statements regarding any significant circumstances or facts that need to be considered in decision making, of the organizations or individuals whose legitimate rights and interests would be likely adversely affected once the decision is made and in effect. Thus, the Legislation covers the detailed provisions with respect to when such listening or collecting of statements is exercised by the authorities or their respective officers.

This is the first law to enable citizens’ participation in drafting, approving and implementing a state policy.

There are a number of types of public hearing:

1. legislative,
2. general oversight,
3. budget oversight,
4. appointment
5. administrative norms and planning
6. local

Public hearings can be organized in format of either open or closed. It is prohibited to organize closed hearings unless the topic of discussion is under secrecy category of individual, organization, state and national security.

Furthermore, it has been already more than 10 years since [www.legalinfo.mn](http://www.legalinfo.mn) website started publishing Mongolian laws, orders of the Parliament and Government, Decision of Constitutional court, legal acts of government agencies that sets out public norms and other legal information. The website was being constantly updated and improved and in 2014 its mobile phone application became available. “State news” journal publishes decisions of the President, Parliament and Government on a monthly basis on paper. “Legal news” journal publishes administrative norms and acts regularly on paper as well. Draft laws submitted to the Parliament are available on [www.parliament.mn](http://www.parliament.mn) <http://www.parliament.mn>. Moreover, every

state and government bodies publish their information allowed by law in their official websites.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See above answer

## 27. Subparagraph (b) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(b) Simplifying administrative procedures, where appropriate, in order to facilitate public access to the competent decision-making authorities; and

### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

One of the goals of the Government of Mongolia between 2008-2012 was to establish One-stop shop for government services in order to eliminate bureaucracy, centralize public service, work closely with citizens, save time, money and effort, and provide inclusive service. Since 2016, 4 one stop service shops are working in the capital city. Each one is obligated to provide 233 government service to the citizens.

Government 11-11 center is hotline to receive citizens' feedback, request, complaint and respond to them back. They publish about their monthly work reports at <<https://zasag.mn>>.

One of the goals of the National Anti-Corruption Strategy is to ensure the openness of public service, develop electronic services that respect customers' interest and upholds their satisfaction, to improve its quality, efficiency, and to strengthen public servants' accountability. In order to implement this goal, currently a law, to decrease number of special licenses, and eliminate any bureaucracy in the process of obtaining such licenses, is being drafted.

Furthermore, with purpose to provide fast, inclusive and transparent and electronic public service, certain activities are being implemented. For example, Government adopted and currently successfully implementing its Resolution NO 259, of 2018 on "Several activities to provide electronic public service", Resolution No 220, of 2019 on "Procedural rules on exchanging information, collecting data base, and its usage between Government bodies to/and government bodies, private sector", and Resolution NO 73, of 2019 on "National program on e-governance".

Some examples on simplifying administrative procedures: State registration code (set of laws) was amended in June 2016, thus enabled citizens to access to electronic database of state registry on property, legal persons and other related information. For instance, Registry of legal persons is now available to the public and citizen can obtain some services such as getting name for his/her company electronically. For further information, please take a look at [<https://burtgel.mn/>](https://burtgel.mn/#/home).

Public service electronic machine (TUTS): There are 77 machines across the capital city. Each machine can provide 28 types of public service. Citizens can send their requests and feedback through the machine. They also can get certificate and references on legal persons, citizens registry, court order, and make payments for getting public service. More information: [<https://tutsmashin.gov.mn/>](https://tutsmashin.gov.mn/#top)

Moreover, State Registry Agency works with Mongol post LLC to provide a service called "Hand to hand" where it can deliver regular passport, Certificate of legal person, rules, related documents and Certificate of property etc., to the citizens by post.

In order to apply for a regular passport, citizens had to come to State Registry Agency to fill in a long and complicated form. Now, a new service was introduced where the Agency can scan a citizen's finger print and print out his/her personal information, so that a citizen can check the information and sign. This service saves time for citizens.

Governor's Office of the Capital City introduced centralized portal system which citizens can get information on the public services that governor's office and its branches provide to citizens and

legal persons, request electronically to receive such services, track the process for his/her requests and give evaluation. More information: [<https://eservice.ulaanbaatar.mn/>](https://eservice.ulaanbaatar.mn/#/welcome)

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above

## 28. Subparagraph (c) of article 10

Taking into account the need to combat corruption, each State Party shall, in accordance with the fundamental principles of its domestic law, take such measures as may be necessary to enhance transparency in its public administration, including with regard to its organization, functioning and decision-making processes, where appropriate. Such measures may include, inter alia:

...

(c) Publishing information, which may include periodic reports on the risks of corruption in its public administration.

### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

According to the Article 26 of Anti-corruption law and 8.8.2 of the National Anti-Corruption Strategy, Independent Authority Against Corruption is obligated to report annually briefing on condition of corruption and implementation of legislation on corruption and integrate the reports of implementation of the Strategy, make an assessment on the activities of the organizations and introduce its assessment results and recommendations to the Parliament. These reports are published on paper as well as available on IAAC official website: <https://iaac.mn/news/awligatai-temtsekh-khuuli-togtoomjiin-kheregjilt-awligiin-erunkhii-nukhtsul-baidal-2sh18-awligatai-temtsekh-undesnii-khutulburiin-kheregjilt-2sh16-2sh18?menu=224>.

The report will include the following:

- Implementation of legislation on corruption, anti-corruption measures and activities that were taken in the reporting year;
- Corruption condition of Mongolia, common violation detected in the public bodies, results of surveys conducted by IAAC such as Integrity assessment of public bodies, Corruption Perception Survey of Politics and Law Enforcement Agencies, and Children's Integrity Survey, and other international corruption survey results on Mongolia.
- Information on implementation process of National Anti-corruption Strategy;

Moreover, in pursuant to Anti-corruption law, IAAC is obligated to conduct the following surveys and inform the public:

- Conduct fairness and integrity rating of government organizations and state bodies based upon a survey conducted once every two years among individuals and legal entities availing government services;
- Conduct, at least once every two years, a survey on the scope, forms and causes of corruption, establish a corruption index;

Research and Analysis Division of IAAC is tasked to conduct the above-mentioned surveys. The division is conducts the following surveys on a regular basis:

1/ Integrity Assessment- The Assessment was conducted once every two years between 2010-2014. Since 2015, it became annual. This assessment is comprised of three types of sub-assessment including external evaluation (from people who received public service), internal evaluation (from public servant who provided public service) and evaluation from the people who takes part in the policy-making process (from experts). Assessment is evaluated from 0-100 points and 100 points illustrates the highest level of integrity. In 2015, 62 organizations, and in 2016, 60 organizations took part in the assessment. In 2018, 62 public institutions are covered and related information was collected from 9411 units across the country as part of this survey. This survey

serves as one of the tools to fight against and prevent from corruption and decrease the corruption risk. It is advisable to conduct measures based on the result of the survey

2/ Corruption Perception Survey of Politics and Law Enforcement Agencies- This survey was conducted each year since 2008. The Survey on Corruption Perception of Political and Law Enforcement agencies carried out by the IAAC in 2017. The survey respondents were the officials, representing public and judicial authorities, medias, political parties, NGOs, business communities and other research organizations.

According to the survey result, perceived levels of the political corruption increased by 0.32 point from the previous year, and reached 3.97 points, in 2017 (The survey measures corruption as a scale of 1 to 5, where 1 is very clean and 5 is highly corrupt).

3/ Children's Integrity Survey - It started since 2010. Children's integrity is evaluated from 1-5 points. 5 should be understood as the highest level of integrity. In 2010, result was 3.29 and in 2019 it reached to 3.91.

Furthermore, Methodology for Corruption risk assessment was renewed and approved by Director of IAAC by his Order NO A/40 on May 1, 2019. In 2018, 24 ministries and government agencies were evaluated in the Corruption Risk Assessment, with IAAC's initiative and funding. In 2019, IAAC together with an NGO evaluated corruption risk of 41 organizations. To choose organizations for the assessment IAAC picks the ones with high corruption risks such as health, mining, education and custom sectors based on other survey results, and detect corruption causes within their activities and help to prevent from further risks. Result of the assessment are delivered to each organization.

Except the abovementioned surveys, Asia Foundation has been conducting 2 annual surveys on corruption perception of citizens and private sector for the past 10 years:

<https://asiafoundation.org/publication/study-of-private-sector-perceptions-of-corruption-stopp-survey-2018/>

Moreover, Mongolian Chamber of Commerce conducts Bureaucracy index survey each year which covers all sectors and inform the public. For the survey report:

<https://www.mongolchamber.mn/mn/serviceDetail/48>

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

## 29. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

Capacity building

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(CB) Capacity-building: please describe the type of assistance**

- Conduct monitoring on the implementation and effectiveness of the Law of Mongolia on the Information Transparency and Right to Information. Learn from methodology and good experiences of other countries, and if necessary adopt to Mongolian system and improve implementation of the law.
- Learn from best practices on identifying corruption risks in the draft administrative decisions; Strengthen capacity of officers in this regard.

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

## 11. Measures relating to the judiciary and prosecution services

### 30. Paragraph 1 of article 11

1. Bearing in mind the independence of the judiciary and its crucial role in combating corruption, each State Party shall, in accordance with the fundamental principles of its legal system and without prejudice to judicial independence, take measures to strengthen integrity and to prevent opportunities for corruption among members of the judiciary. Such measures may include rules with respect to the conduct of members of the judiciary.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

In order to strengthen independence of the judiciary and improve its legal framework, Judiciary codes (set of laws such as Law on Establishment of a Court, Law on Court of Mongolia, Law on Legal Status of Judges, Law on Judicial Administration, Law on Reconciliation, Law on Legal Status of Jury, Law on Legal Status of Lawyer etc.,) was enacted and entered into force from April 15, 2013.

#### **One. Measures to strengthen integrity among members of the judiciary/**

##### **A. Rules with respect to the conduct of members of judiciary.**

First Code of Conduct of Judges was approved by General Judicial Council in 1997, by its Resolution NO 03. In 1993-2002, Disciplinary committee which was tasked to review whether a judge violated any disciplinary rules was working next to Supreme court, and court of provinces and the capital city.

According to the Article 45 of the Law on Court (2002), Council of Judges amended the Code of conduct of Judges in 2002, 2003 and 2010 by its resolutions, respectively.

Out of the Article 51.3 of the Constitution, the Article 4.4.1.5 of the Law on Legal status of Judge specifies that “Judge shall understand his/her professional ethics, respect integrity and human right, not being influenced by other and be able to make decisions independently”.

According to the new codes, Mongolian Bar Association approved new draft Code of Conduct of Judges on February 28, 2014 and since then being enforced

[<<http://www.judcouncil.mn/huuli\\_03.html>>](http://www.judcouncil.mn/huuli_03.html),

[<http://www.judge.mn/home/content?id=18>>](http://www.judge.mn/home/content?id=18). Research criticize the Code as it left out some standards and principles of the Bangalore Principles and Model code of Judicial conduct of the American Bar Association. For instance, the Code did not include issues of conflict of interest, to make an effort, to meet professional requirement, to keep public trust in court, to ensure right of debate, to always solve arguments, and to mind own manners.

With regards to professional rules, all lawyers including judges should obey the “Rule for professional activities of lawyer” adopted by Bar Association. Under the Article 5.1.3 of the Code of Conduct of Judges, “If 1 month has passed since detecting an ethical violation and/or 6 months has passed since the violation took place, no disciplinary action can be taken”. Some researchers say that introducing such statute of limitation, even restricting it to be such a short period of time is not in line with international standards.

**Enforcement of ethical rules/code of conduct.** The judge is responsible for following the ethics rule. The ethics committee is in charge of applying disciplinary actions in case of violation. The General Judicial Council shall enforce the ethics rule by organizing

trainings on ethics. Nevertheless, some people consider that the Ethics committee's work is not satisfactory.

The Article 32.1 of the Law on Judicial Administration specifies that "there will be a single Ethics committee in charge of applying disciplinary actions for judges". Members of the Ethics committee will be appointed by the President of Mongolia. The committee will be comprised of 9 reputable people including lawyers, researchers and scholars etc., Two third of the members should represent Ministry of Justice and professional association. Procedural rule for hearing ethical violations should follow the Law on Judicial Administration and Rule for the Ethics Committee. According to the Article 37.1 of the Law on Legal status of Judges, "If judge violates this law, Code of Conduct of Judge, and other labour rules in the judiciary shall be subject to one of the following disciplinary actions:"

- Reprimand/notify;
- Up to 30 percent salary decrease for up to 6 months;
- Suspension;

The Ethics committee for the past 5 years, 2014-2018, received 1135 complaints related to 1706 judges, and refused to initiate disciplinary case against 80 percent of the complaints, thus investigated the remaining 20 percent of the complaints and in result, ruled to take disciplinary actions against 71 judges. 15 of them were taken disciplinary actions with valid court decisions.

*Table: Decisions of Court on overriding decisions of the Ethics Committee*

<b>Year</b>	<b>Number of judges that the Ethics committee ruled to take disciplinary measure</b>	<b>Number of judges which was disciplinary actions with valid decision</b>
2014	7	0
2015	13	2
2016	8	4
2017	14	4
2018	29	5
<b>Total</b>	<b>71</b>	<b>15</b>

The Court overriding(nullifying) the decisions of The Ethics Committee is the reason why the current system is not satisfactory and efficient.

### **Training course for judges**

In Pursuant to the Article 25.1 of the Legal Status of Judge, judge is obligated to improve his/her knowledge and to take part in related training courses every year. In 2018 General Judicial Council adopted its Resolution NO 84. Under the resolution, judges are obligated to take part in the systematically arranged training courses titled "Constitution and Human right" and "Ethics of Judge" every year. IAAC will teach classes on conflict of interest, related rules and regulations and international best practice during the "Ethics of Judge" training course.

### **Prevention from conflict of interest**

The general provisions of the conflict of interest law regulates the issues related to submission of conflict of interest declaration. The judges shall issue each year the conflict of interest declarations. The declarations are stored at General Judicial Council (GJC). Such declarations will serve as

preventive measure. Also, according to the provision 29.1 of the Law on Legal Status of judges, the judge is obliged to refuse to take part in court sessions where conflict of interest may arise or shall inform the participants of the sessions on potential conflict of interest and provide the participants with opportunities to refuse him/her. The provision 29.2 further prohibits the judges to work as attorneys for 2 years after the resignation from the judicial positions or leaving office from old age.

The ethics code of judge's states that:

4.1. The judge shall declare his/her private interest declaration and asset and income declaration. In doing so, the judge is obliged to declare the declaration truthfully. Moreover, the Article 91 of the Civil Procedure code, the Article 84 of the Administrative Procedure code, and Article 10.3 of the Criminal Procedure Code, respectively, specifies legal basis for judges to refuse to take part in court sessions.

## **Two. Measures to prevent opportunities for corruption among members of the judiciary**

### **2.1. /Strengthening the institutional integrity system/**

*Appointment of judge:* According to the Article 51.2 of the Constitution “The President shall appoint the judges of the Supreme Court upon their presentation to the State Great Hural (Parliament) by the General Judicial Council, and appoint the judges of other courts, upon the proposal by the General Judicial Council. There’s no tenure for judges according to the Constitution. The General Judge of all instances are appointed for a certain tenure according to the Constitution and law on Legal Status of Judges. Under the Article 15.2 of the Legal Status of Judge, after receiving proposal from the General Judicial council, the President will make a decision either to appoint or not. But there have been several cases since 2013 where the President did not make any of the decisions.

*Dismissal, Suspension and Transfer of judge:* According to the amendment made to the Article 17.1.8 of the Law on Legal Status of Judge on March 27, 2019, the President can dismiss a judge based on proposals of the National Security Council. Procedures and ground for using this new amendment is not clear and currently people are worrying whether this new amendment will interfere independence of judges. Ground for suspension of judges are specified in the Article 18.4 of the Law on Legal status of judge. With regards to transfer of judges, Article 20.4.3 of the same law states that “it is prohibited to transfer a judge to a different position or different level of court without his/her permission”.

*Economical guarantee of judge:* The Article 23.1 of the Law on Legal Status of Judge specifies that “the salary of a judge shall be sufficient for working and living independently economic wise”. Based on this law, in 2015, the Parliament adopted its Resolution NO 101, that set the salary of judge to be MNT 2.7-3.3 million. Unfortunately, in November 10, 2015, the Parliament void the Article 23.5 of the Legal Status of Judge which specified “When approving budget of Court, it is prohibited to decrease amount and components of salary”. This was a step back in terms of ensuring economic guarantee of judges.

### **2.2. /Minimizing opportunities for corruption/**

#### **A. Administration of court**

In Mongolian administration of courts has independent format. According to the Article 49 of the Constitution, The General Judicial Council shall work for the purpose of ensuring the impartiality of judges and independence the judiciary. The General Judicial Council, without interfering in the judicial proceedings of courts and judges, shall discharge duties such as concerning the selection of judges from exclusively amongst lawyers, protection of their rights, and other matters pertaining to providing the conditions that guarantee the autonomous functioning of judges.

In pursuant to the Article 13.1 of the Law on Judicial Administration, General Council will be comprised of a head and 4 members. The President will appoint the head and the members of the General Council after receiving nominations of a single person each from councils of court of first instance, appellate court, upper appellate court and the Bar Association and Ministry of Justice.

According the Law on Judicial Administration, General Judicial council is mandated to coordinate activities in order to ensure independence of court, supervise administration of court, selects judges from lawyers, protect legal rights of judges, implement human resource policy of court. Administration of court is comprised of General Judicial Council, its office, administration departments of all levels of court, research centers and other supporting units of court administration.

#### **B. Management and Distribution of cases**

According to the Article 25 of the Law on Court, the case distribution procedure is adopted by the conference of the judges of that court. The criminal, civil and administrative courts are connected to the integrated system of the case registration and revision. Each court adjusts the settings of the case distribution based on the decision issued by the conference. The cases are then randomly distributed to the judges of that court based on the settings. Thus, the case distribution is implemented automatically without any undue interference.

Reconciliation system of the court. The reconciliation system lowers the workload of the civil court dramatically which increases the expected number of cases to be resolved by such system in future. The previous mechanic record keeping of the reconciliation cases caused many sorts of difficulties. The new system was launched in 2015 and continues its operation up until today.

Integrated system of criminal case registration and revision. This system is part of universal system of judiciary and law enforcement agencies which consists of 4 subsystems and enables the to track detection, investigation, prosecution, adjudication and enforcement of court rulings. The integrated system of criminal cases enables track the cases starting from court of first instance through the supreme court and launched in 3<sup>rd</sup> April 2017.

Search and coercive actions registration system. The system is introduced in 2018 and enables to track status of resolution on search and coercive action issued by the court. The police agency enforces such decisions and closes the record. The system allows to measure statistically the search and coercive actions on a national level.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

### 31. Paragraph 2 of article 11

2. Measures to the same effect as those taken pursuant to paragraph 1 of this article may be introduced and applied within the prosecution service in those States Parties where it does not form part of the judiciary but enjoys independence similar to that of the judicial service.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Newly adopted Law on Prosecutor entered into force from July 1, 2017. Criminal Procedure Code was newly adopted on May 18, 2017 and included several important provisions to increase supervision and responsibility of prosecutors.

Moreover, in 2019, General Prosecutor gave directives by his decree NO 04 on “Improving responsibility of prosecutors of high level”, NO 05 on “Improving professional skills and responsibility”, NO 06 on “Preventing from torture”, NO 07 on “Improving ethics, discipline and responsibility”.

On January 31, 2018, the President of Mongolia approved Code of Ethics of Prosecutors and Operational regulations of Prosecutor’s Ethical Council, by his Order NO 10. Ethics committee of Prosecutors received 20 complaints and requests as of first half of 2019. This number was 16 in the previous year. Hotline for receiving complaint and information for prosecutor’s violations on conflict of interest, ethics, discipline and responsibility started working from last year. On March 1, 2018, Prosecutor General approved procedural rules for the hotline operation by his decree NO A/20.

In 2017, General Prosecutor’s Office received 29 complaints, transferred 4 of them to related prosecutor’s offices and Prosecutor’s Professional Council, 1 complaint to a Department in charge of investigating crimes committed by special subject, and 22 related to prosecutor’s ethics was examined by Internal Inspection Department and results of the examination was then submitted to a Director of Prosecutor’s Ethical Council for final decisions. As a result of examination by Internal Inspection Department, 4 prosecutors received disciplinary sanctions.

By first half of 2018, Prosecutor’s Ethics Council received 16 complaints and transferred one complaint to Prosecutor’s Professional Council and other complaints to was examined by Internal Inspection Department and results of the examination was then submitted to a Director of Prosecutor’s Ethical Council for final decisions.

Training center of the General Prosecutor’s Office jointly with Asia Foundation conducted a “Research on Integrity of Prosecution Service” and training courses titled “Prevention of corruption and conflict of interest” and “Issues to consider for investigation and prosecution of corruption offenses”. IAAC organized training courses on prevention from corruption and conflict of interest for all prosecutors of the capital city in 2016, and for all prosecutors across the country in 2017. IAAC, as of first half of 2019, organized 55 training courses (256 hours) for 2547 prosecutors, officer, investigators and lawyers.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

## **32. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

Use modern technology for investigation of corruption offences and train our officers in this regard.

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(CB) Capacity-building: please describe the type of assistance**

Use modern technology for investigation of corruption offences and train our officers in this regard.

**(RA) Research/data-gathering and analysis: please describe the type of assistance**

Receive technical assistance in terms of analyzing, monitoring and preventing from illegal and unethical attempt of influence towards officers of judiciary and law enforcement authorities.

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

## 12. Private sector

### 33. Paragraphs 1 and 2 of article 12

1. Each State Party shall take measures, in accordance with the fundamental principles of its domestic law, to prevent corruption involving the private sector, enhance accounting and auditing standards in the private sector and, where appropriate, provide effective, proportionate and dissuasive civil, administrative or criminal penalties for failure to comply with such measures.
2. Measures to achieve these ends may include, inter alia:
  - (a) Promoting cooperation between law enforcement agencies and relevant private entities;
  - (b) Promoting the development of standards and procedures designed to safeguard the integrity of relevant private entities, including codes of conduct for the correct, honourable and proper performance of the activities of business and all relevant professions and the prevention of conflicts of interest, and for the promotion of the use of good commercial practices among businesses and in the contractual relations of businesses with the State;
  - (c) Promoting transparency among private entities, including, where appropriate, measures regarding the identity of legal and natural persons involved in the establishment and management of corporate entities;
  - (d) Preventing the misuse of procedures regulating private entities, including procedures regarding subsidies and licences granted by public authorities for commercial activities;
  - (e) Preventing conflicts of interest by imposing restrictions, as appropriate and for a reasonable period of time, on the professional activities of former public officials or on the employment of public officials by the private sector after their resignation or retirement, where such activities or employment relate directly to the functions held or supervised by those public officials during their tenure;
  - (f) Ensuring that private enterprises, taking into account their structure and size, have sufficient internal auditing controls to assist in preventing and detecting acts of corruption and that the accounts and required financial statements of such private enterprises are subject to appropriate auditing and certification procedures.

**Is your country in compliance with these provisions?**

**(P) Yes, in part**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with these provisions of the Convention.**

Paragraph 1 and 2:

The State Policy on Public-Private Partnership was adopted by the Resolution # 64 of Parliament in 2009. The State Policy on Public-Private Partnership (hereinafter referred to as "Policy") stated that its aim as "provides public infrastructure and social services, and cooperates with the government and the private sector to implement projects and programs that are prioritized by the Government, reducing the state's participation in these sectors by enhancing the functions of the private sector, improving the quality and accessibility of basic services, and improving the efficiency of the budget".

The purpose of the "National Strategy for Promoting Private Sector Development" approved by the Government of Mongolia on 9 February 2011 was "To create a favorable business environment in Mongolia, to improve the competitiveness of the private sector, to facilitate public-private partnership, mutually beneficial partnership, and support of the state to increase productivity and productivity. "

Article 6.5.2 of the Anti-Corruption Law establishes and enforces ethical principles of the private sector as "Define and comply with the norms of business ethics in the private sector. Also, Article 6.6 states that "Organizations, business entities and officials that received lawful demands and/or resolutions of the Anti-Corruption Agency, adopted are obligated to undertake and adopt the relevant actions, and report back in a timely fashion". Article 18.3 of the same law states that " The Anti-Corruption Agency shall cooperate, within its competence, with managers of state and local self-governing bodies, their officials, NGOs and private business entities in performing their functions".

Chapter 12 of the Company Law defines procedures for conflict of interest transactions. This means that the Company Law provides for the management of private organizations to act in a way that is legitimately fulfilling their duties accordingly. For see: Law on Company <http://lehmanlaw.mn/wp-content/uploads/2016/04/Company1999.pdf> Also, Article 1.1 of the Law on Licensing states that "Objective of this Law is to regulate a relation with respect to giving, delaying and invalidating a license to some business activities that might negatively effect public interest, human well-being, environment and national security and that might require specific conditions and expertise." And Article 7.1 of the that Law provides that "If it is not differently stated in the Law, relevant central administrative body will give a license stated in the article-15 of this law". According to the Article 18.2 of the Law on Licensing, "Any person or legal entity that violates this law shall be subject to liability under the Criminal Code or Violation Law. For more information: Law on Licensing <https://www.wipo.int/edocs/lexdocs/laws/en/mn/mn017en.pdf>

Conflict of Interest Law (COI) was adopted by the Parliament in 2012. Article 20 of the COI provides for a prohibition on the conduct of business activities after some public officials (including those belonging to the same subject) from the public office. Article 21 of the COI also stipulates "Restrictions on Employment After Public Office" as "an official shall not, for two years after his/her separation from public office, undertake the following actions fraught with conflict of interest": take up employment with an economic entity or organization in relation to which he/she had performed his/her official duties; conclude agreement or contract with his/her former employer seek a license issued by the former employer; represent any individual or a legal entity before his/her former employer. Also, the issues specified in National Anti-corruption Strategy. Section 4.1.6 of the "National Anti-Corruption Strategy" approved by the Resolution 51 of 2016 by the Parliament of Mongolia, specified its aim as strengthening public-private cooperation in anti-corruption activities within the framework of reducing the risk of corruption in the private sector and ensuring competition in the private sector. and measures and measures to be taken in the provision.

Paragraph 2 (a):

The State Policy on Public-Private Partnership was adopted by the Resolution # 64 of Parliament in 2009. The State Policy on Public-Private Partnership (hereinafter referred to as "Policy") stated that its aim as "provides public infrastructure and social services, and cooperates with the government and the private sector to implement projects and programs that are prioritized by the Government, reducing the state's participation in these sectors by enhancing the functions of the private sector, improving the quality and accessibility of basic services, and improving the efficiency of the budget".

Under the policy document, the Parliament passed the Law on Concession in 2010 as a key legal regulation to regulate this Partnership. The purpose of this law is to regulate the relations between the state and local self-owned property through the concession agreement of the investors (private).

Paragraph 2 (b):

In 2011, the Government of Mongolia approved the "National Strategy for Promoting Private Sector Development" in order to create a favorable business environment in Mongolia, improve the competitiveness of the private sector, and public-private partnership."

Article 6.5.2 of the Anti-Corruption Law establishes and enforces ethical principles of the private sector by the private sector. Article 6.6 states that a business entity, organization, or official who receives legal requirements and decisions issued by the Independent Authority Against Corruption it is mandatory to take the necessary actions and to respond promptly. Moreover, Article 18.3 of the Anti-Corruption Law states that "The Independent Authority Against Corruption shall cooperate with the governing body of the government, non-governmental organizations and private enterprises in the exercise of their mandate".

Paragraph 2 (c):

The Law on State Registration states that names, addresses, registration numbers, types, forms of activity, date of registration, and names of shareholders are to be registered at the time of registration. This information including owners of the companies publishes in the Registrations Portal to the public through <http://opendata.burtgel.gov.mn/les>.

Paragraph 2 (d):

With support of the project "Strengthening Good Governance and Transparency in Public Service with Democratization" by the Asian Foundation, and the cooperation with IAAC and Transparency International Mongolia, the Mongolian National Chamber of Commerce and Industry has been organizing series of discussion among the private companies since November of 2017. During the discussion, they debate about corruption and its cause and consequences, business ethic, and provide information about current law and regulations. At present, the Mongolian National Chamber of Commerce and Industry has trained over 3,000 staff members from about 30 enterprises.

Paragraph 2 (e):

These issues have been dealt with in the Conflict of Interests Law (2012) Articles 20 and 21, governing public and private interests in public service and preventing conflict of interest. However, according to the law, public officer shall be prohibited serving on the management of economic entities but have the right to be a shareholders, that leading to a conflict of interest. For example, the case of SME support fund. Where companies of high official's or members of Parliament's related persons have been received loan from the SME fund (<https://news.mn/r/2093686/>).

Paragraph 2 (f):

Mongolia regulated this issues. For example: Resolution 311 of 2011 by the Government of Mongolia adopted "Common Regulation of Organization of Internal Control on Business activity of companies and entities". The purpose of this common regulation is to regulate relations related to organizing internal audit within the business entity and organization.

The Resolution 483 of the Government of Mongolia passed the "The Rules of Internal Audit". The Code regulates the purpose, scope, principles, organizational and internal audit's functions of each Budget governors, including the rights and obligations of internal auditors, conducting internal audit activities, and co-operating with external auditors.

Mongolian National Association of Internal auditors have been working since 2016 and is part of The Global Institute of Internal auditors (<https://institutes.theiia.org/sites/Mongolia/about/Pages/default.aspx>), which organizes a different trainings for companies and capacity building trainings for auditors.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

The State Policy on Public-Private Partnership was adopted by the Resolution # 64 of Parliament in 2009. The State Policy on Public-Private Partnership stated that its aim as "provides public infrastructure and social services, and cooperates with the government and the private sector to implement projects and programs that are prioritized by the Government, reducing the state's participation in these sectors by enhancing the functions of the private sector, improving the quality and accessibility of basic services, and improving the efficiency of the budget".

Under the policy document, the Parliament passed the Law on Concession in 2010 as a key legal regulation to regulate this Partnership. The purpose of this law is to regulate the relations between the state and local self-owned property through the concession agreement of the investors (private).

Mongolia has a relatively good legal environment for PPPs supported by the 2010 Concession Law and relevant regulations. Public-Private Partnership Unit has started operating in 2011 and has developed PPP handouts and key procedures. Within the framework of the concession law, the government has established five concession agreements in energy and transport industry between 2011 and 2015, including building Power Plant #5 project.  
<https://www.adb.org/sites/default/files/publication/360166/eawp-07-mn.pdf>

In 2016, Section 4.1.6 of the National Anti-Corruption Strategy approved by Resolution-51 of the Parliament provides provisions for the reduction of corruption risks in the private sector and the promotion of competitiveness.

There are currently 78 585 business entities registered in Mongolia, of which 60 330 are small and medium enterprises. At national level, 1 226 942 people are working, 78.3 percent or 906 495 people work in this sector. By implementing the state policy on promoting small and medium enterprises, 74728 new jobs have been created, 6912 small and medium-sized enterprises are upgrading their equipment and exhibition in 17 foreign countries, and 38737 citizens and business entities have been expanding their business operations. For more information: <<http://mofa.gov.mn/exp/article/entry/1496>>

The Independent Authority Against Corruption has opened the "Civic Control Center" at 4 sites of the Capital city. These centers are designed to receive complaints and information on corruption, conflicts of interest, and corruption crimes, and provide legal advice, information, training and public awareness to citizens and private sectors.

"The ISO 37001: 2016 Anti-bribery management systems" agreed and adopted by Mongolian Agency for Standard and Metrology as a national standard. In relation to the implementation of the Accounting Law, the Mongolian Agency for Standards and Metrology has adopted following standards as national standards, including IAS-International Accounting Standard, IPSAS-International Public Sector Accounting Standard and IPSAS-31.

The Law on State Registration states that names, addresses, registration numbers, types, forms of activity, date of registration, and names of shareholders are to be registered at the time of registration. This information including owners of the companies publishes in the Registrations Portal to the public through <<http://opendata.burtgel.gov.mn/les>>.

In October 2005 Joint session of Standing committees of State Great Hural (Parliament) on budget and economy supported a possible adherence of Mongolia to the Extractive Industries Transparency Initiative, and instructed the Government to join this Initiative. The Government approved adherence to EITI at their Cabinet meeting, on January 4th, 2006 and issued the Resolution #1. <<http://www.eitimongolia.mn/en/beneficial-owners>>

### 34. Paragraph 3 of article 12

3. In order to prevent corruption, each State Party shall take such measures as may be necessary, in accordance with its domestic laws and regulations regarding the maintenance of books and records, financial statement disclosures and accounting and auditing standards, to prohibit the following acts carried out for the purpose of committing any of the offences established in accordance with this Convention:

- (a) The establishment of off-the-books accounts;
- (b) The making of off-the-books or inadequately identified transactions;
- (c) The recording of non-existent expenditure;
- (d) The entry of liabilities with incorrect identification of their objects;
- (e) The use of false documents;
- (f) The intentional destruction of bookkeeping documents earlier than foreseen by the law.

#### **Is your country in compliance with this provision?**

**(P) Yes, in part**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Paragraph 3(a):

In order to prohibit or prevent the disclosure of off-the-accounts outside the official accounts Mongolia has adopted relevant legislation. However haven't any statistical or other data.

Paragraph 3(b):

In order to prohibit or prevent the making of off-the-books or inadequately identified transactions Mongolia has adopted relevant legislation. However haven't any statistical or other data.

Paragraph 3(c):

In order to prohibit or prevent the recording of non-existent expenditure Mongolia has adopted relevant laws. But haven't any statistical or other data.

Paragraph 3(d):

In order to prohibit or prevent the entry of liabilities with incorrect identification of their objects Mongolia has adopted relevant laws. But haven't any statistical or other data.

Paragraph 3(e):

In order to prohibit or prevent the use of false documents Mongolia has adopted relevant laws. But haven't any statistical or other data.

Paragraph 3(f):

In order to prohibit or prevent the intentional destruction of bookkeeping documents earlier than foreseen by the lawuse of false documents Mongolia has adopted relevant laws. But haven't any statistical or other data.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.



### **35. Paragraph 4 of article 12**

4. Each State Party shall disallow the tax deductibility of expenses that constitute bribes, the latter being one of the constituent elements of the offences established in accordance with articles 15 and 16 of this Convention and, where appropriate, other expenses incurred in furtherance of corrupt conduct.

**Is your country in compliance with this provision?**

**(P) Yes, in part**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Although Mongolia has adopted "bribery of public official of foreign state organizations and international organizations" is set out in Article 22.6 of the Criminal Code, however, the interpretation of bribery, related to public official of foreign and international organizations shall be improved in accordance with international standards. A public official of foreign and international organization shall be clearly defined in the Criminal Code. There is also a lack of information on the cost of bribery, which is a component of the crime, and about taxable expenses in appropriate cases of corruption, that are not permitted the exclusion.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

## 36. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(LA) Legislative assistance: please describe the type of assistance**

In order to protect public interests in Mongolia, there is a need to create a "legal whistle blower" for the protection and incentive of "whistleblowers" providing information on offenses, offenses and offenses. The legal environment for protection of the whistleblower is one of the factors to prevent corruption

**(CB) Capacity-building: please describe the type of assistance**

Some measures aimed at enhancing private sector participation are being organized by the Anti-Corruption Agency and other organizations, but it is not sufficiently integrated with timeless features that are uniquely strategic and have no plans. Therefore, it is imperative for private businesses and businesses to develop a system of anti-corruption and orderly concepts. Furthermore, there is a need for financial assistance to develop mechanisms to provide training and legal knowledge to anticorruption, and to develop new means of delivery of preventive information.

Effective implementation of anti-corruption and conflict-of-interest measures requires the participation of government agencies as part of anti-corruption legislation and requires international experience in coordinating public-private cooperation.

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

## 13. Participation of society

### 37. Paragraph 1 of article 13

1. Each State Party shall take appropriate measures, within its means and in accordance with fundamental principles of its domestic law, to promote the active participation of individuals and groups outside the public sector, such as civil society, non-governmental organizations and community-based organizations, in the prevention of and the fight against corruption and to raise public awareness regarding the existence, causes and gravity of and the threat posed by corruption. This participation should be strengthened by such measures as:
  - (a) Enhancing the transparency of and promoting the contribution of the public to decision-making processes;
  - (b) Ensuring that the public has effective access to information
  - (c) Undertaking public information activities that contribute to non-tolerance of corruption, as well as public education programmes, including school and university curricula;
  - (d) Respecting, promoting and protecting the freedom to seek, receive, publish and disseminate information concerning corruption. That freedom may be subject to certain restrictions, but these shall only be such as are provided for by law and are necessary:
    - (i) For respect of the rights or reputations of others;
    - (ii) For the protection of national security or order public or of public health or morals.

#### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Paragraph 1 (a):

With purpose to enable public participation in decision-making the exchange of information, to unify, to reflect on and report back of the views of citizens, civil society organizations and other stakeholders organized a two-sided electronic consultation system, where posted the draft law, developed by lawmakers. For instance Parliamentary Office, <http://forum.parliament.mn>, the Office of the President, <https://president.mn/khuuliin-tusul>, other governmental organizations, such as Communications and Information Technology authority [http://cita.gov.mn/?page\\_id=10559](http://cita.gov.mn/?page_id=10559). Where state organizations receiving views to the draft laws from citizens and general public and to support the public.

In addition of receiving views of public and citizens in electronic form is organized also a forum for discussion of draft law. For example, a two-stage forum was organized by the Citizens' Representative Khural of Songinokhairkhan district on the drafting of the Law on Administrative and Territorial Units of Mongolia

<http://shd.mn/mn/мэдээ-мэдээлэл/4363-хуулийн-хэлэлцүүлэг-зохион-байгууллаа>.

With purpose to support to provide citizens and public oversight and to ensure access to transparency in decision-making processes of state bodies and officials were organized citizens control members in 21 provinces, ministeries, agencies, and in the capital city and districts, which are worked on contract based 152 citizens.

Paragraph 1 (b):

The anticorruption agency signed the "Memorandum of Understanding" on March 19, 2018 with the NGO "Glob-International", which worked since 1999, in framework of the implementation the eighth objective of the National Anti-Corruption Program (to ensure the enforcement of citizens' right to access information) is to promote governance, transparency, independent media, press freedom monitoring and journalists capacity building. In addition, for the purpose of promoting journalist ethics and accountability has been developed a draft of a curriculum project, budget proposal and a memorandum of understanding for the website developers and workers.

In order to improve civil service transparency and increase citizens' access to information on public services as states in the Article 2 of the Action Plan for the Implementation of the National Anti-Corruption Program "to ensure public service transparency, to develop e-services, to enhance access to quality, to improve the accountability of civil servants" is aimed to create a system for delivering public services electronically.

Paragraph 1 (c):

To introduce harmfulness of corruption for citizens and general public, for the purpose of forming intolerance view against unethical and unfaithful behavior were made posters by "Mongol Content" LLC. These posters were containing 5 types of content, such as, corruption is a crime against education, corruption is a crime against development, corruption is a crime against environment, corruption is a crime against people and corruption is a crime against economy and these posters were printed in 15000 copies. 5600 finished posters are currently being distributed to 21 aimags and in 330 soums, 3000 in the 13 ministeries and districts. Furthermore, It is also ready to release mouse stand, flash, telephone number holders, pens, brochures, notebooks, wall calendars, bulletin boards, and sticker (2 types) are propagandizing the damages of corruption.

In framework to introducing harmfulness of corruption and to form intolerance to corruption, diverse events for public awarness and improving the level of education against corruption were organized. For example, at schools started club activities, in schools of Dornod, Sukhbaatar, Dornogovi and Govisumber aimags, in school 28 of Bayangol district, in schools 48 and 92 of Bayanzurkh district, in school 39 of Chingeltei district, in school 118 of Khan-Uul district, and school "The future" of Songinokhairkhan district, school 4 of Sukhbaatar district, school "Hearth" of Nalaikh district, school "Education" of Baganuur district, school "Khangai" of Bagakhangai district were established "Club for Justice".

Within the framework of organizing a "Pupil-Family-School" event, together with the "Mongolian Student Association" NGO, "Mongolian Parents Association" NGO, and the local Education Division in private and state-owned schools of Khubsgul, Orkhon, Dornod and Umnugovi aimags for pupils discussed on the topic "Human being" and for parents "Good Mom and Dad", also were presented and discussed the results "Child integrity" survey (2016) among parents, teachers and students, on which participated students of high school.

Within the implementation of the objective 2.10 of National Anticorruption Strategy "to engrain ideology of fairness, to organise public awareness activities against corruption in stages, and to enhance legal knowledge against corruption" were organized essay writing competition on topic "A different future" among 8-10 grade students with cooperation with the Mongolian Pupils Association and results were presented during December 01 to December 06 of 2018.

The IAAC and MECS representatives are working together in Working group, which developing programs to reflect on the content of anti-corruption education in the topics of social sciences in the context of the curriculum. In collaboration with the Association of Educational Cooperation were organized the experience sharing workshop with the Integrity teachers. Workshop, which was devoted International Anticorruption day, participated 110 teachers from 33 schools, managemers and parents with in schools. Also, in issue published by the NGO "Open school" was published Best practices of 110 above mentioned teachers, learning outcomes and changes after integrity lessons in school environment, achievements, also was introduced the National Anti-Corruption Strategy, including information about the target 2.10th of the strategy (November of 2018).

To fullfil the target of National Anti-Corruption strategy "... to include the content of anti-corruption education at the curriculum and standards of the institutions of all levels education" was done analysis work of the curriculum and standards of universities and colleges on ethics, corruption and conflicts of interest. In this this regard sighned the contract with the "Comprehensive Policy Development Center" for the reserch work on Ethics issues of Higher Education System, which planed to do in the third quarter of 2019.

In cooperation with the Asia Foundation and the Law Enforcement College was meeting to update the ethics curricula, the content of the curriculum and provided information and recommendations on the implementation of the National Anti-Corruption Strategy. After acquaintance of the new draft curriculum was given some recommenadations, and the training was conducted in November of 2018 under new curriculum. The new curriculum contains subjects of ethics, corruption prevention and conflict of interests programs, wich will enable compulsory curriculum for the students of School of Police the Law Enforcement College.

The Zorig Foundation and "World learning" NGO are actively organize leadership programs, training and advocacy events on youth participation, leadership and ethics in Mongolia.

For instance, Тухайлбал, For example, supporters of "Leadership of Health Sector", that are members of "Lead Mongolia" programm, which was organized by "World learning" NGO representatives in Mongolia and members of team "Increase Integrity of Youth" are organized a short video competition 'To spot a light' and distributed among students and young people. The target of this event is to build free from corruption society and integrity. "The "Zorig Foundation" included subject of corruption in "Youth Leadership" program of the youth and in the framework of the "Democracy Messenger" Youth Leadership Program provided training on the perceptions, causes and consequences of corruption.

Paragraph 1 (d):

i. Information on corruption crimes are available at <https://www.iaac.mn/category/26?menu=147>, information on court decisions of corruption cases are available at <http://shuukh.mn/>.

In the National Anti-Corruption Program in order to strengthen the integrity, transparency and independence, to improve the cooperation of the judiciary and law enforcement authorities provided to establish united information database on corruption crimes and violations. In this regard IAAC plans to finalize a draft of the software for judicial decisions-court decisions. Establishing united electronic information database system will give the opportunity analysis data from receiving information from corruption violations to investigation and prosecution and court decision.

The Asian Development Bank implements a project TA: 9662- MON: Anti-Corruption Technical Assistance Technical Assistance Project (2019-2021). In this project actively engaged such state organization as General Prosecutors Office, General Council of Courts and Anti-Corruption agency. One of main target of this project is detailed analysis of the corruption crimes flow. Mongolia supports the freedom of searching, receiving, publishing, dissemination information about corruption. Mongolia respects the rights and reputation of others within the framework of the law.

ii. Information about corruption is open as covers by legislation

For see more detailed information:

<https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/1.Anti-Corruption%20Law%20of%20Mongolia.pdf>  
<https://iaac.mn/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/4.Action%20plan%20for%20implementation%20the%20National%20Anti-Corruption%20Strategy%20of%20Mongolia.pdf>

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

## 38. Paragraph 2 of article 13

2. Each State Party shall take appropriate measures to ensure that the relevant anti-corruption bodies referred to in this Convention are known to the public and shall provide access to such bodies, where appropriate, for the reporting, including anonymously, of any incidents that may be considered to constitute an offence established in accordance with this Convention.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Information on corruption cases and offenses is receiving by the IAAC personally, by phone, by facsimile, by mail, by e-mail. Additionally, the Anti-Corruption Law provides for "Undertake organizational measures to support and assist anti-corruption actions, initiatives and recommendations of NGOs, communities and individuals, and promote their participation", also meet the objectives stated in the National Anti-Corruption Strategy ensure receiving the information about government organization's and governmental officer's bureaucratic service, corruption, conflicts of interest, complaints about corruption, receive legal advice, information, training and public awareness on corruption was jointly organized "Civic Control Center" by the Coordination Council of the Capital City Crime Prevention and the Governor's Office of Ulaanbaatar on January 25, 2019 in Dunjinggaav, Dragon, Misheel Expo and Orgil Trade Center in 6th Station.

In 2017, IAAC received 658 corruption offence related complaints out of total 1324 complaints and information from citizens and organizations, whereas, in 2018, that number has increased and reached 858 corruption offence related complaints out of total 1887 complaints. However, in the 2018 survey of the Asia Foundation's Corruption Perceptions Survey, participants were asked "Do you know how to report corruption in the Anti-Corruption Agency?". And Respondents answered "Yes" to the question were 47.8 percent in March 2010, that decreased to 18.5 percent in December 2018 (<http://bzd.edub.edu.mn/Data/Uploads/Docs/b69ac2d9-8c31-4611-b984-3e4225affedc.pdf>).

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

See answer above.

### **39. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(NO) No assistance would be required**

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

## 14. Measures to prevent money-laundering

### 40. Subparagraph 1 (a) of article 14

1. Each State Party shall:

(a) Institute a comprehensive domestic regulatory and supervisory regime for banks and non-bank financial institutions, including natural or legal persons that provide formal or informal services for the transmission of money or value and, where appropriate, other bodies particularly susceptible to money-laundering, within its competence, in order to deter and detect all forms of money-laundering, which regime shall emphasize requirements for customer and, where appropriate, beneficial owner identification, record-keeping and the reporting of suspicious transactions;

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Subparagraph 1 (a):

According to the Article 6.1 of the Banking Law of Mongolia and Article 7.1 of the Law on Non-bank Financial Institutions banks and NBFIs should carry out the activities under the regulated license.

Under the Article 4.1 of the Law on Combating Money Laundering and Terrorism Financing (AML/CFT) of Mongolia, Reporting Entities (REs) are service providers specified in the International standards.

REs specified in Articles 4.1 of the Law are enforced to pursue all the obligations set out in the AML/CFT Law and Preventive measures regulation on combating money laundering and terrorist financing (PMR).

All the obligations set out in the PMR are in line with the FATF International Standards.

Under the AML/CFT Law, REs described below (Article 4.1) shall conduct customer due diligence (CDD), identify beneficial owner, submit a report about cash, foreign settlement and suspicious transactions above 20 million togrog to the Financial Information Unit (FIU).

1. Banks;
2. Non-bank financial institutions;
3. Insurance companies and insurance licensed entities;
4. Investment funds; investment management company;
5. Licensed securities market entities;
6. Savings and credit cooperatives;
7. Real estate agents who are involved in activity of buying and selling of real estate on behalf of a client;
8. Dealers of precious metals and precious stones, and parties engaged in sales of those manufactured items;
9. Notaries, lawyers, accountants and other financial management counsellors;

If entities described above suspects or knows that an asset, income or transaction, or attempted transaction is related to money laundering or terrorism financing, or is related to proceeds of crime, shall submit a Suspicious Transaction Report to the Financial Information Unit within 24 hours in accordance with approved procedures and formats. The Bank of Mongolia (BoM) and The Financial Regulatory Commission (FRC) shall supervise and regulate REs to ensure the compliance with their obligations imposed by the AML/CFT Law.

REs described in Article 4.1 are obligated to conduct CDD to identify and verify beneficial owner based on reliable official sources of information, documents and information sources:

- for the purposes of understanding and knowing whether the account is opened and/or transaction is conducted on behalf of a beneficial owner, entities shall clarify information on the nature of the business relationship, purpose and ultimate beneficiary of transaction;
- if a customer is a legal entity, entities shall identify full name of a beneficial owner, and take reasonable measures to verify the identity of the beneficial owner, and understand the ownership and control structure of that customer;

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

Subparagraph 1 (a):

1. Number of Cash Transaction Reports

2019.I	2018	2017	2016	2015	2014
120,709	669,910	572,181	838,110	1,223,984	1,962,408

Source: BoM, FIU. 2019.08.01

2. Number of Foreign Settlement Transaction Reports

2019.I	2018	2017	2016	2015	2014
25,269	126,994	98,549	90,560	86,329	149,682

Source: BoM, FIU. 2019.08.01

3. Number of Suspicious Transaction Reports

2019.I	2018	2017	2016	2015	2014
555	1,596	203	282	113	212

Source: BoM, FIU. 2019.08.01

Parliament of Mongolia adopted a resolution number 67 dated 13 June 2019 to reorganize the organizational structure of the IAAC and increased its vacancy by 60 employees. This enables IAAC to form a designated unit for anti-money laundering and financial analysis.

Head of NPA by the order №A/11 of 11th January 2018, restructured economic crime units transforming Economic Crime Division into the Economic Crime Department. The Economic Crime Department comprises of Anti-Money Laundering Division, Financial Crimes Division and Investigation division. Accordingly, internal structure, officers rank and titles has been changed substantially. Organizational reform resulted in increased performance of tackling financial crime.

Moreover, 5 vacancies of financial experts are added in the Countering money laundering division and 98 million tugrugs set up in to 2019 annual state budget as monthly wages. Department broadening 4 qualified experts for those positions and investigating accurately.

Economic Security Department of the General Intelligence Agency of Mongolia formed a specialized division designated for only money laundering, terrorist financing and countering proliferation investigations. The department conducts research over criminal trends and implements risk assessment on terrorism financing. Particularly, much focus is paid on financing activities by terrorists and terrorist organizations through the use of social networks and commitment of terrorism financing crimes. Because in Mongolia, Facebook, Twitter etc. are not supervised control and from the other point, there are 2,1 million Facebook users. Therefore, there is high risk of terrorism financing and within this area, actions are being implemented to prevent.

After the Mutual evaluation report was approved in 2017, Mongolia had negotiated with APG on the 2017-2018 Action Plan and had implemented it. According to this plan, APG considered that Mongolia was unable to conduct a comprehensive risk assessment of money laundering and terrorism financing. Thus, it conducted a risk assessment terrorism financing and financial sectors risk assessment necessary for supervision. According to the APG Action Plan, Mongolia should conduct the risk assessment of high-risk sectors that were included in the country's AML/CFT

medium term strategy, and it is preparing to update the national risk assessment after finalizing the AML/CFT legal environment revision. In compliance with the FATF recommendations, in May 2018, an amendment draft to the Law on money laundering and terrorism financing was submitted with simplified actions to be taken for low risks. New Amendments to the AML/CFT Law had legislated articles related to risk based approach in supervision and provided the legal basis.

In June 2018, an amendment was made to the Law on state registration of legal entities and documents such as under the decree A/208 dated 2018 “Procedure on registering subsidiaries, representative offices of legal entities” issued by the Minister of Justice and Home affairs, decree A/420 dated 1 November, 2018 “Beneficiary ownership information of legal entities owning mining special licenses” /Form UB-12/ have been approved and are being implemented.

The Revised Law on State Registration of Legal Entities states that information regarding the beneficial owner of the legal entity, its shares, interests, and voting rights shall be kept in the profile of the legal entity, changes to the information must be registered, and a founders of new legal entity shall include the above information to the state registration form /application/. The regulation will take effect on January 1, 2020.

According to the procedures on complying with the General Taxation Law, legal entities registered before January 1, 2020 are required to submit information of its beneficial owner by January 1, 2021.

Within the framework of implementing the requirements in the Law on Anti-money laundering and terrorism financing law by gold and valuable assets exchangers, survey, risk evaluation matrix and handbook on inspection was drafted. Difficulties are faced due to the fact that gold and valuable assets exchangers do not obtain special licenses and therefore, making difficult to identify them.

Also, within the framework of the Cooperation council, the FIU under the Mongolbank requests informal assistance and cooperates with the National police agency on inspecting gold and valuable assets exchangers.

In the recent 3 years, IAAC in detecting, disrupting and combatting money launder, investigated 19 cases with damage amount of 97,9 billion tugrugs, 42 individuals and of these cases, 14 cases are ongoing, 4 cases are dismissed and 1 case has been transferred to court.

From this, 5,9 billion tugrugs to the state budget and investigated 74 citizens, 37 legal entities and seized immovable and movable assets worth a total of 106,773,000,000 tugrugs.

## 41. Subparagraph 1 (b) of article 14

1. Each State Party shall:

...

(b) Without prejudice to article 46 of this Convention, ensure that administrative, regulatory, law enforcement and other authorities dedicated to combating money-laundering (including, where appropriate under domestic law, judicial authorities) have the ability to cooperate and exchange information at the national and international levels within the conditions prescribed by its domestic law and, to that end, shall consider the establishment of a financial intelligence unit to serve as a national centre for the collection, analysis and dissemination of information regarding potential money-laundering.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Subparagraph 1 (b):

The investigation of the money-laundering offense is subject to investigation by the NPA, IAAC and GIA. The BoM and FRC has the authorization to supervise. The Financial Information Unit was established in 2006 within the structure of the Bank of Mongolia. The core functions of FIU is to receive reports of suspicious transactions from financial institutions, other natural persons and entities, to analyze them, and to disclose the results to local law-enforcement organizations and foreign FIUs to combat money laundering; and if there are sufficient grounds to suspect that the given transaction had the purpose of money laundering or terrorism financing, then it shall be disseminated to competent law enforcement authorities and anti-terrorism agencies according to the regulation and to compile database on reports of suspicious, cash and non-cash transactions submitted to the competent authorities.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

Subparagraph 1 (b):

Relevant statistics:

Number of reports disseminated for investigation to law enforcement authorities by FIU

2019.I	2018	2017	2016	2015	2014
6	181	15	166	27	6

Source: BoM, FIU. 2019.08.01

Number of inquiries received from domestic competent authorities

2019.I	2018	2017	2016	2015	2014
874	2,510	1,945	1,200	1,248	634

Source: BoM, FIU. 2019.08.01

Number of responses to inquiries received from domestic competent authorities

2019.I	2018	2017	2016	2015	2014
1,102	2,300	1,834	1,238	1,241	631

Source: BoM, FIU. 2019.08.01

Moreover, the FIU cooperates with foreign institutions and international organizations which conduct similar activities and have similar confidentiality requirements imposed by law. In 25 May 2009 Mongolia has joined Egmont Group, an international group of FIUs of the world, and has officially fully admitted the cooperation and information sharing with the Financial Intelligence Units of 155 countries. Also, FIU Mongolia has cooperation MOU with 19 other foreign countries FIUs.

The Cooperation Council, with functions to ensure the implementation of laws related to combating the money laundering and terrorism financing, exchange information, mitigate risk and prepare recommendations on preventative measures is established at the Financial Information Unit. The Cooperation Council consists of representatives of Ministries in charge of foreign relation, finance, justice, Prosecutor office, Bank of Mongolia, Financial regulatory commission, Law enforcement authorities, organizations responsible of combating terrorism financing, taxation and custom authorities and the Financial Information Unit.

Under the April 2018 amendments of the AML/CFT Law, the National Committee was established under the Prime Minister, with function to draft national AML/CFT policy, strategy to be approved by the Government and to take policy decisions to implement it. The National Committee is chaired by the Member of the Government in charge of legal affairs, should be consisted of representatives of Member of the Government in charge of finance, Member of the Government in charge of foreign affairs, Prosecutor office, Bank of Mongolia, Financial regulatory commission, Law enforcement authorities, organizations responsible of combating terrorism financing, taxation and custom authorities and the Financial Information Unit. The function of secretariat of the National Committee is performed by the Financial Information Unit.

IAAC cooperates with international networks and similar authorities on combatting and preventing corruption as well as obtaining formal and informal information for criminal cases.

The IAAC established relations with 22 organizations of similar responsibility/duty from 13 countries including China, Republic of Korea, Thailand, UK, Austria and signed MoUs with 7 of them. Moreover, the IAAC has been working with four international organizations and other countries to exchange information within the UN Convention Against Corruption. For instance, the IAAC signed three MoUs since 2018: 1) The IAAC and International Anti-Corruption Coordination Center UK / IACCC UK / signed MOU on mutual cooperation in March 2018; 2) The IAAC and Serious Fraud Office / SFO UK / signed MOU in November 2018; 3) The IAAC and Anti Corruption Agency of Azerbaijan (ACAA) signed MoU and established bilateral cooperation in May 2018. Mongolian representatives visited the ACAA in November 2018 and worked onsite by getting familiarized with works of ACAA, District Court, Prosecutor's Office and Community Service Center of Azerbaijan.

Between 2016-2019, 22 MLA requests has been submitted to foreign authorities in Switzerland, United Kingdom, China, Russia, Singapore, France, Canada etc. for 13 criminal cases.

In implementation of article 15<sup>2</sup> of Chapter 2 of the Law on combatting terrorism financing and prevention of money laundering, Law on customs and Appendix 1 to the Decree 468 dated 2008 approved by the Director of the Director of the Customs general authority "Procedure on the customs enter of personal belongings of passenger", movement of tugrugs and foreign currencies is supervised by the Customs general authority with exchange of information with the Mongolbank under the joint decree joint decree A-119, A-132 dated 28 July, 2014 issued by the President of Mongolbank and Director of the General customs authority.



## 42. Paragraph 2 of article 14

2. States Parties shall consider implementing feasible measures to detect and monitor the movement of cash and appropriate negotiable instruments across their borders, subject to safeguards to ensure proper use of information and without impeding in any way the movement of legitimate capital. Such measures may include a requirement that individuals and businesses report the cross-border transfer of substantial quantities of cash and appropriate negotiable instruments.

### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Under the Article 15 of the AML/CFT Law travellers carrying more than 15 million togrogs or equivalent amount of foreign currency, bearer negotiable instruments, e-money across the Mongolian border shall declare faithfully in the Customs declaration forms. Mongolian General Customs Administration shall consolidate cash declarations made under the Article 15.1 of this Law and transmit to the Financial Information Unit every month according to the relevant regulations.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

Number of Customs Declaration Reports

2019.I	2018	2017	2016	2015	2014
418	1,413	1,533	1,488	1,917	2,347

Source: BoM, FIU. 2019.08.01

Under the Customs law, passenger declare customs and other taxes for products, carrying goods and goods for a third party, 5 million tugrugs or equivalent foreign currency or check. For example, carrying cash up to 5 million tugrugs is permitted.

Under the joint decree A-119, A-132 dated 28 July, 2014 issued by the President of Mongolbank and Director of the General customs authority, in order to ensure the implementation of the Law on anti-money laundering and terrorism financing, suspicious passengers carrying cash of 20 million tugrugs or more or equivalent foreign currencies, valuables, assets are reported by the General customs authority to the FIU under the Mongolbank.

General customs authority is cooperating with the FIU to prevent and identify trends of money laundering such as dividing and transporting large amount money with the assistance of related persons, transfer of small amount of money in many border crosses by persons who gained illicit proceeds.

Cooperation of IAAC and FIU in the recent 3 years under the MOU signed in 2016:

1. In 2017, 61 requests for information of 1085 individuals and legal entities and received 61 responses on 1038 individuals and legal entities,
2. In 2018, 67 requests for information of 1512 individuals and legal entities and received 67 responses on 1538 individuals and legal entities,
3. As of 15 August, 2019, 53 requests for information of 696 individuals and legal entities and received 43 responses on 680 individuals and legal entities. Total of 180 requests for information of 3293 individuals and legal entities and received 171 responses on 3246 individuals and legal entities used for investigation.

In the recent 3 years, upon initiative of the FIU and under the MOU, financial investigation has conducted in connection with 3 STRs and 1 criminal case opened and 2STRs under review.

### 43. Paragraph 3 of article 14

3. States Parties shall consider implementing appropriate and feasible measures to require financial institutions, including money remitters:

- (a) To include on forms for the electronic transfer of funds and related messages accurate and meaningful information on the originator;
- (b) To maintain such information throughout the payment chain; and
- (c) To apply enhanced scrutiny to transfers of funds that do not contain complete information on the originator.

#### **Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Paragraph 3 (a):

Under the AML/CFT Law, for the purposes of CDD, REs are obligated to clarify full name, registration number, residential address, contact phone number and account number of a sender and a receiver of wire transfers between banks and other financial institutions.

For the purpose of properly implementing the CDD requirements of the Law and PMR, customer identification and verification shall include the requirements set out in PMR. The objective of the identification and verification requirements of the Law is to identify and verify both the customer of the reporting entity, the beneficial owner and any person that has a beneficial interest in the assets of the customer or who, in the case of a legal person or arrangement, owns, controls or has a beneficial interest in its property. Where layered ownership structures are used it will be necessary to identify and verify the components of each layer until the ultimate beneficial owner or controller is identified.

Paragraph 3 (b):

REs are obligated to retain information and records of transactions, accounts and information of customers obtained for the purposes of CDD for at least five years after the date of transaction.

According to the PMR, in relation to the cross-border wire transfers, reporting entities processing an intermediary element of the payment chain should keep all wire transfer information including originator and beneficiary information for at least 5 years.

Paragraph 3 (c):

AML/CFT Law specified that the Governor of the Bank of Mongolia approved PMR and the requirements of CDD measures are regulated in PMR. Reporting entities are obligated to take enhanced CDD measures whenever there is a suspicion of money laundering or terrorism financing or when the customer has a business relationship with or in countries identified as high risk. REs must undertake enhanced monitoring of the following transactions:

- transactions with unusually large amount;
- transactions that have no apparent economic or lawful purpose;
- transactions conducted in the name of a politically exposed persons;
- transactions made via countries that are defined by the AML/CFT international organizations as the strategically deficient in anti-money laundering and combating the financing of terrorism regime;

REs are obligated to undertake all possible measures to obtain additional information, explanation and examine purpose of transaction and business relationships of transaction of the above mentioned transaction types. REs should assess risks and take enhanced due diligence measures for high risk customers, enhanced monitoring on the account and transactions. REs are obligated to refuse to provide service if a customer refuses to provide information.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

Procedure document has been adopted regarding distant and on-site inspection by banks to obligated reporting subject in the field of anti-money laundering and terrorism financing. Under this document, information is provided in a form on a seasonal basis from obligated reporting subjects and risk assessments are updated upon changes.

Between 2017-2019, FIU and the Mongolbank Bank note department in cooperation with the IMF technical assistance team drafted a XML form for collecting information from the Mongolian industrial union and prepared the information with GoAML program.

The information mentioned above and its handbook is placed on websites [www.nctc.gov.mn](http://www.nctc.gov.mn) <<http://www.nctc.gov.mn>>; [www.gia.gov.mn](http://www.gia.gov.mn) <<http://www.gia.gov.mn>>; [www.mongolbank.mn](http://www.mongolbank.mn) <<http://www.mongolbank.mn>>; [www.frc.mn](http://www.frc.mn) <<http://www.frc.mn>> and also placed urgent contact information.

#### **44. Paragraph 4 of article 14**

4. In establishing a domestic regulatory regime and supervisory regime under the terms of this article, and without prejudice to any other article of this Convention, States Parties are called upon to use as a guideline the relevant initiatives of regional, interregional and multilateral organizations against money-laundering.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

To ensure the cooperation on the international level and information sharing possibility, the AML/CFT Law states that the Financial Information Unit should cooperate with foreign and international organizations with similar functions and of the same level of confidentiality requirements in accordance with respective legislation.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

Under a joint decree A/92, A-144 “Working group on preparing and presenting the report on the effectiveness of the Mongolian system on combatting money laundering, terrorism financing to the Asia Pacific Group on Money laundering” dated 28 May, 2019 approved by the Minister of Justice and Home affairs and President of Mongolbank, a collective of 42 officials from 14 organizations. The National council was amended by the decree 144 dated 20 August, 2018, approved by the Prime minister of Mongolia and the Council is led by the Minister of Justice and Home affairs. Under article 22<sup>1</sup> of the Law on Combatting money laundering and terrorism financing, the National council drafts the national programme on combatting money laundering and terrorism financing for adoption by the Government and cooperates domestically on implementing the actions.

According to Article 22 of the AML/CFT Law, the CC is responsible for the implementation of AML/CTF Laws and Regulations, developing guidelines for information sharing, risk reduction and prevention. Between 2017-2019, the activities of the Cooperation council was regularized and increased its members up to 15 including organizations such as the Judicial general council, State registration authority and the Council on regulating terrorism combatting.

Under decree A-305, dated 5 December, 2018 of the President of Mongolbank, a working group was established for preparing the APG technical implementation report and the report was submitted 31 January, 2019.

By the request of the Secretariat of the Council on regulating terrorism combatting on amending the Law on combatting terrorism, the Cooperation council members worked and submitted their draft.

## 45. Paragraph 5 of article 14

5. States Parties shall endeavour to develop and promote global, regional, subregional and bilateral cooperation among judicial, law enforcement and financial regulatory authorities in order to combat money-laundering.

### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

- Mongolia has signed 28 treaties on Mutual Legal Assistance with 20 countries, and 15 extradition treaties with 15 countries.
- The FIU is actively involved in the international cooperations. The FIU has signed a Memorandum of Understanding with 18 countries, including regional partner countries. The FIU became a member of the Egmont Group, an international group of Financial Information Units of the world in 2009. As a member of Egmont Group, the FIU has been exchanging information with other financial information units of the world.
- The BoM is a member of the Asia-Pacific Group on Money Laundering (APG) since 2004.
- Mongolia participates as an observer in the Euro-Asian Group on Money Laundering operations since 2012.
- The General Prosecutors Office has signed Memorandum of Understanding/contract with several regional partner countries, including Russia, PRC and Korea. As a member of InterPol I-24/7, Mongolia is actively using this network to exchange information.
- The General Customs Administration has signed cooperation and mutual legal assistance agreement with 16 countries, including Russia and PRC.

**Please provide examples of the implementation of those measures, including related court or other cases, available statistics etc.**

Between 2016-June 2019, the Independent Authority Against Corruption under the MOU signed with the FIU under the Mongolbank, submitted 70 requests for transaction and receiving party disclosure, information on legal entities and property ownership to foreign authorities for 74 cases opened in Mongolia. The Independent Authority Against Corruption cooperates and shares information with the following networks:

- EGMONT group of the Financial intelligence unit under the Mongolbank
- Asset recovery interagency network - Asia Pacific (ARIN-AP)
- Interpol - National bureau

IAAC held an official meeting with a FBI representative in Beijing, China on 5 April, 2018 and the two authorities established cooperation and since then, IAAC officials participated in the International law enforcement academy and FBI Regional training in Bangkok in 2018.

A delegation led by the IAAC General director visited ICAC Hong Kong in August 2018 and shared practices and discussed cooperation.

Other then this, officials from IAAC participated in an investigation topic training at ICAC Hong Kong in June 2019 and a training on preventing corruption will be held in Ulaanbaatar by ICAC officials.

A delegation consisting of IAAC and General Prosecutor's office visited Eurojust and meet foreign authorities to discuss cooperation and information exchange for criminal cases.

IAAC delegation visited the Anti-corruption directorate and court and prosecutor's office of

Azerbaijan in October 2018. During the visit, officials also visited the public service one-stop center and signed a MOU with the Anti-corruption directorate.

Officials from IAAC, participated in the ARIN-AP training and seminar held in Jokarta, Indonesia in May 2018 and ARIN-AP annual meeting held in Bali, Indonesia. During the annual meeting, Mongolia was nominated and chosen as the Presidency of the network.

The ARIN-AP annual meeting 2019 shall be held in Ulaanbaatar 23-27 September, 2019.

IAAC is implementing a technical support project for the Government of Mongolia on increasing the system on combatting corruption with the Asian development bank (December 2018 - December 2020).

## 46. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(IB) Institution-building: please describe the type of assistance**

Strengthening of staffs of AML/CTF units in all institutions with participation in workshops, short and long-term courses that indicates current and most recent theories, methods, and case of international approaches on AML/CTF issues.

**(CB) Capacity-building: please describe the type of assistance**

In order to increase the capacity of law enforcement officials, judges, prosecutors, investigators conducting investigation and oversight over money laundering and come to a joint understanding, it is necessary to study foreign practice of similar authorities, invite foreign instructor advisor to organize trainings. For example, gathering information on money laundering, following the money, collecting and analyzing open source information, financial forensics, training financial experts.

**(RA) Research/data-gathering and analysis: please describe the type of assistance**

Technical assistance from international experts on conducting AML risk assessment at the country and national level, where currently it needs attention. Strategic and operational analysis.

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

## V. Asset recovery

### 51. General provision

#### 225. Article 51

1. The return of assets pursuant to this chapter is a fundamental principle of this Convention, and States Parties shall afford one another the widest measure of cooperation and assistance in this regard.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention, including identifying both any legal authorities/procedures for accepting requests for asset recovery and assessing that these requests are reasonably substantiated and supplemented as well as any time frame established under domestic laws and procedures for their execution, taking into account requests received from countries with similar or different legal systems and any challenges faced in this context.**

The current existing Mongolian legislation environment does not prohibit or cause any obstacles for cooperation. In other words, the legal environment is provided for cooperation based on national legislation, bilateral agreements, international treaties and conventions.

The Parliament of Mongolia ratified the United Nations Convention against Corruption on 27 October 2005. Article 15.1 of the Law on international treaties specified that “The Parliament shall adopt a law in order to ratify a multilateral treaty”, thus, the Parliament of Mongolia ratified the UNCAC through adopting a law and the Convention has the same effectiveness as domestic legislation.

Article 10.4 of the Constitution of Mongolia “The international treaties to which Mongolia is a Party, shall become effective as domestic legislation, upon the entry into force of the laws on their ratification or accession” and under this article, international treaties and principles, norms, in particular, UNCAC is recognized as a component of the Mongolian legal system.

Under articles 10.2 “Mongolia shall enforce and fulfil in good faith its obligations under the international treaties to which it is a Party”, 26.3 “The laws of Mongolia shall be officially promulgated by the State Great Hural (Parliament), and unless otherwise provided by law, it shall become effective and enter into force after ten days since the date of its publication”, 50.3 “Examine and make decisions on matters regarding the protection of law, human rights and freedoms prescribed therein, as transferred from the Constitutional Tsets (Court) or by the Prosecutor General” of the Constitution of Mongolia and article 25.1 “The rules on publication of Laws of Mongolia shall apply to the publication of international treaties which are ratified by the State Ih Hural, and the rules on publication of Government decrees shall apply to the publication of other international treaties” of the Law on International treaties, provide that court shall apply officially published treaties from those treaties that have come into effect.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

Asset recover actions are executed by court orders through submission and receipt of mutual legal assistance requests in civil and criminal matters under bilateral, multilateral treaties and if such treaty does not exist then through diplomatic channels within the permitted framework.

Article 42.4 of the Criminal procedure law. Execution of foreign MLA requests submitted by foreign competent authorities

1. Judge, prosecutor, investigator shall execute foreign MLA request under the common procedure specified in this law.
2. Existence of an MLA treaty established with the requesting then foreign investigation norms shall be applied.
3. If specified in international treaties, representatives from foreign competent authorities can be present in investigation actions.
4. Under the following circumstances, if not specified differently in international agreements and treaties, the reasons for non-executions and documents received shall be returned to the foreign authority through the General prosecutor's office:
  - 4.1. In compliance of this law and requirements specified in international treaties related to the matter.
  - 4.2. Causing harm to the State sovereignty and safety.
  - 4.3. Violation of Mongolian law.

## **226. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(NO) No assistance would be required**

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

## 52. Prevention and detection of transfers of proceeds of crime

### 227. Paragraph 1 of article 52

1. Without prejudice to article 14 of this Convention, each State Party shall take such measures as may be necessary, in accordance with its domestic law, to require financial institutions within its jurisdiction to verify the identity of customers, to take reasonable steps to determine the identity of beneficial owners of funds deposited into high-value accounts and to conduct enhanced scrutiny of accounts sought or maintained by or on behalf of individuals who are, or have been, entrusted with prominent public functions and their family members and close associates. Such enhanced scrutiny shall be reasonably designed to detect suspicious transactions for the purpose of reporting to competent authorities and should not be so construed as to discourage or prohibit financial institutions from doing business with any legitimate customer.

#### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

#### Customer Due Diligence: Identification and Verification

Under Article 5.1 of the AML/CFT Law entities described in Article 4.1 of this law shall identify and verify customer information based on reliable official sources of information, documents and information sources. These obligations are set out elaboratively in the “Preventive measures regulation on combating money laundering and terrorist financing”, abbreviated as PMR.

#### Beneficial ownership:

Under the Article 4<sup>1</sup> of the AML/CFT Law steps to identify and measures to be taken of beneficial owner is regulated. Also, the PMR gives further explanations of these obligations.

#### Enhanced Customer Due Diligence (EDD) and Politically Exposed Persons (PEP):

Reporting Entities described in Article 4.1 are obligated to apply enhanced CDD measures on money laundering and terrorist financing high-risk customers by undertaking all possible measures to obtain additional information, explanation and examine purpose of transaction and business relationships of these transactions and undertake enhanced monitoring of the following transactions:

- transactions with unusually large amount;
- transactions that have no apparent economic or lawful purpose;
- transactions conducted in the name of a politically exposed persons;
- transactions made via countries that are defined by the AML/CFT international organizations as the strategically deficient in anti-money laundering and combating the financing of terrorism regime;

Reporting entities (Res) described in Article 4.1 of the AML/CFT Law should assess risks and take enhanced due diligence measures for high risk customers; such measures are regulated by the PMR.

REs are obligated to refuse to provide service if a customer refuses to provide information as stipulated in the identification of the customer.

#### Transaction monitoring, STR, and confidentiality:

REs are obligated to apply risk-based approach to monitor customer account and their transactions. If REs suspects or knows that an asset, income or transaction, or attempted transaction is related to money laundering or terrorism financing or is related to proceeds of crime it must submit a Suspicious Transaction report to the Financial Information Unit within 24 hours in accordance with approved procedures and formats. The Article 12 and 13 of the law states that submitting of reports by REs to the Financial Information Unit and competent authorities, in accordance with provision of this Law, should not be deemed as a breach of banking, professional, customer, business entity or organization, business or other secrecy confidentiality. Moreover, chapter 19 of PMR gives further regulations on monitoring and ensuring compliance of reporting entities.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## 228. Subparagraph 2 (a) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

(a) Issue advisories regarding the types of natural or legal person to whose accounts financial institutions within its jurisdiction will be expected to apply enhanced scrutiny, the types of accounts and transactions to which to pay particular attention and appropriate account-opening, maintenance and record-keeping measures to take concerning such accounts; and

### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Under the Article 19.2.3 of the AML/CFT Law, the FIU, BoM and the FRC have the authority to issue instructions, regulations, guidelines, and recommendations to REs for compliance with AML/CFT obligations. Under this provision, Mongolia has issued the following resources to assist REs meet their AML/CFT Obligations:

- PMR.
- Examples of Suspicious Transactions.
- Guidance for Conducting and Filling the STR.
- Guidance for Conducting Strategic Analysis.
- Guidance on Transparency and Beneficial Ownership.
- Guidance on Politically Exposed Persons.
- Regulation on Submitting Information to FIU for the Banks.
- Guidance on Know Your Customer Procedure and Reporting of Cash and Suspicious Transactions.
- Guidance on the On-Site Assessment and Assessment of Savings and Credit Cooperation's Activities.

Guideline on the Prepare of Documents and Filling of Application Form of Special License, License for Activities of Non-bank Financial Institution.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## 229. Subparagraph 2 (b) of article 52

2. In order to facilitate implementation of the measures provided for in paragraph 1 of this article, each State Party, in accordance with its domestic law and inspired by relevant initiatives of regional, interregional and multilateral organizations against money-laundering, shall:

...

(b) Where appropriate, notify financial institutions within its jurisdiction, at the request of another State Party or on its own initiative, of the identity of particular natural or legal persons to whose accounts such institutions will be expected to apply enhanced scrutiny, in addition to those whom the financial institutions may otherwise identify.

### Is your country in compliance with this provision?

**(P) Yes, in part**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Under Article 6 of the AML/CFT Law, REs are obligated to undertake enhanced monitoring of the identification of customers. Under Article 5.3 REs should assess risks and take enhanced due diligence measures for high risk customers; such measures shall be regulated by regulation specified in Article 5.14 the Law. Moreover, some customers shall be viewed as a high risk, which is specified in the Article 5.9. Specified measures are regulated in the PMR. Chapter 2 of the PMR regulates REs to assess customers risk and take appropriate risk-based measures. Several risk factors are given under the Article 2.6 for undertaking risk assessments in order to ensure that REs are able to understand and manage those risks. Other risk factors associated with the business of the reporting entity that are detected in the course of the risk assessment conducted pursuant to Article 2 of the PMR and should referred to the National Risk Assessment. Under Chapter 7 of the PMR, REs shall apply enhanced customer due diligence (enhanced CDD) measures to high risk customers and transactions. The FIU or the supervisory authorities may impose counter measures to transactions associates with countries or geographic regions that are identified as being a high ML or TF risk by the FIU or the supervisory authority or international organizations including the Financial Action Task Force and the Asia Pacific Group on Money Laundering or other similar regional body. The Bank of Mongolia, Financial Information Unit, Financial Regulatory Committee, General Intelligence Authority and other self-regulatory body are all have mechanism to send information to the REs. All these obligations are supervised by regulatory bodies of authorized agencies.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## 230. Paragraph 3 of article 52

3. In the context of paragraph 2 (a) of this article, each State Party shall implement measures to ensure that its financial institutions maintain adequate records, over an appropriate period of time, of accounts and transactions involving the persons mentioned in paragraph 1 of this article, which should, as a minimum, contain information relating to the identity of the customer as well as, as far as possible, of the beneficial owner.

### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Article 8 of the AML/CFT Law regulates record keeping of information and documentation of customers. Entities described in Article 4.1 of this law shall retain information and records of transactions, accounts and information of customers obtained in accordance with Article 5 and 6 of this law for at least five years after the date of transaction or the closure of the account.

The Chapter 2 of the PMR regulates that REs shall adopt the measures to manage risk by applying enhanced consumer due diligence to high risk consumers, products, services and delivery channels, geographic locations. Chapter 4 regulates reporting entities to take reasonable steps to verify the identity of the beneficial owner or any person that has a beneficial interest in the assets of the customer or who, in the case of a legal person or arrangement, owns, controls or has a beneficial interest in its property by using relevant information or data obtained from a reliable source such that the reporting entity is satisfied that it knows the identity of the beneficial owner, where subject to record keeping requirements that are consistent with those of the Law. And this regulation is applicable for all reporting entities specified in Article 4.1.1 through Article 4.1.6 of the AML/CFT Law.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## 231. Paragraph 4 of article 52

4. With the aim of preventing and detecting transfers of proceeds of offences established in accordance with this Convention, each State Party shall implement appropriate and effective measures to prevent, with the help of its regulatory and oversight bodies, the establishment of banks that have no physical presence and that are not affiliated with a regulated financial group. Moreover, States Parties may consider requiring their financial institutions to refuse to enter into or continue a correspondent banking relationship with such institutions and to guard against establishing relations with foreign financial institutions that permit their accounts to be used by banks that have no physical presence and that are not affiliated with a regulated financial group.

### Is your country in compliance with this provision?

**(P) Yes, in part**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

In the Article 3.1.7 of the AML/CFT Law shell bank is given precise definition as of a bank whose management and operations have no physical presence in a country in which it is registered and licensed, and which is unaffiliated with a regulated financial group that is subject to effective consolidated supervision is prohibited to establishment. Entities described in the AML/CFT Law shall be prohibited from entering into relationship or continue its previous relationship.

Entities described in Article 4.1 of the AML/CFT Law are prohibited from the following:

- Entering into correspondent banking relationships with shell banks;
- Entering into correspondent banking relationships with banks that have relationships with the shell banks;
- To continue correspondent banking relationship with shell banks, if it had previously entered into relationship.

Also, Chapter 9 of the “Preventive measures regulation on combating money laundering and terrorist financing” states that all REs before establishing cross-border correspondent arrangements and similar relationships, reporting entities shall obtain information whether this bank exists and shall not establish correspondent relationship with shell bank and financial institution, and shall not establish or continue business relations with a respondent financial institution in a foreign country if the respondent institution permits its accounts to be used by a shell bank.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

None to report.

## 232. Paragraph 5 of article 52

5. Each State Party shall consider establishing, in accordance with its domestic law, effective financial disclosure systems for appropriate public officials and shall provide for appropriate sanctions for non-compliance. Each State Party shall also consider taking such measures as may be necessary to permit its competent authorities to share that information with the competent authorities in other States Parties when necessary to investigate, claim and recover proceeds of offences established in accordance with this Convention.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

According to the article 3.1.5 of the AML/CFT law “Politically exposed person” is an individual defined in Article 20.2 of The Law on the Regulation of Public and Private Interests and Prevention of Conflict of Interest in Public Service, or an individual who is or has been entrusted with similar posts by a foreign country and an individual who is or has been entrusted with similar posts by an international organization. The article 5.9 of the AML/CFT law states that politically exposed person shall be viewed as high risk customer. Also, Article 6 further explains that REs must undertake enhanced monitoring of the transactions conducted in the name of a politically exposed persons and submit suspicious transactions report to the FIU, where FIU analyses then sends report to the Law enforcement agencies. Moreover, Article 3 of the “Preventive measures regulation on combating money laundering and terrorist financing” states internal controls of a reporting entity should include a requirement that reporting entities identify PEP’s, their family members, associates and parties with common interests. All these persons should be subject to enhanced CDD procedure and transactions on their name should be subject to enhanced monitoring.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## 233. Paragraph 6 of article 52

6. Each State Party shall consider taking such measures as may be necessary, in accordance with its domestic law, to require appropriate public officials having an interest in or signature or other authority over a financial account in a foreign country to report that relationship to appropriate authorities and to maintain appropriate records related to such accounts. Such measures shall also provide for appropriate sanctions for non-compliance.

### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

In the recent years, trends to conceal their assets through laundering money in offshore zones have increased. In relation to this matter, an amendment was made in the Regulation on public and private interest in public office and prevention of conflict of interest law and public officials and their related persons (person with common interest) are prohibited to own bank accounts in offshore zones and are required to close such account and report about the closure to the Independent Authority Against Corruption.

The Regulation on public and private interest in public office and prevention of conflict of interest law and public officials and their related persons (COI Law):

10<sup>1</sup>. Prohibition related to ownership of bank account, movable and immovable properties and incorporation of legal entities

10<sup>1</sup>.1. Public officials required by law to submit declaration on personal conflict of interest and income and assets and his/her person of common interest shall be prohibited from opening bank accounts and placing funds into the account and possessing movable and immovable properties and incorporate legal entities through shareholding in an offshore zone during the execution period of office of the public official.

10<sup>1</sup>.2. Nominees appointed to positions under legal requirements and criteria or through election and his/her person of common interest shall preliminary report about bank accounts and placement of funds in the account and possession of movable and immovable properties and incorporation of legal entities through shareholding in an offshore zone if the person is nominated for a position.

10<sup>1</sup>.3. States and zones falling under the category of offshore zones shall be defined by the Government based on the proposals of the Mongolbank (Central bank) and central government administrative bodies in charge of finance with consideration of the list issued by international economic and financial organizations.

10<sup>1</sup>.4. If the elected or appointed nominee in article 10<sup>1</sup>.2 of this law and his/her person of common interest opened bank accounts and placed funds into the account and possesses movable and immovable properties and incorporated legal entities through shareholding in an offshore zone, he/she shall execute the following measures within 3 months and report the Independent Authority Against Corruption on the change in wealth and income within 30 days.

10<sup>1</sup>.4.1. Closure of opened bank account

10<sup>1</sup>.4.2. Re-transfer the placed funds in the bank account

10<sup>1</sup>.4.3. Sell, transfer or re-obtain ownership rights of movable and immovable properties

10<sup>1</sup>.4.4. Suspend the operation, sell possession, exploitation and allocation rights, transfer, terminate legal entities incorporated through shareholding

10<sup>1</sup>.5. Bank accounts opened, funds placed, movable and immovable properties possessed by public officials and his/her person of common interest for the purpose of study, labor, medical assistance, service during the period of execution of official duties in the foreign state listed as an offshore zone shall not be related to article 10<sup>1</sup>.1. Bank accounts opened, funds placed, movable and immovable properties possessed for the purpose of study, labor, medical assistance, service under circumstances other than executing legal duties, he/she shall report in writing to the Independent Authority Against Corruption.

10<sup>1</sup>.6. Execution of duties in articles 10<sup>1</sup>.2, 10<sup>1</sup>.4 of this law shall not constitute or possible

constitution of conflict of interest.

10<sup>1</sup>.7. Breach of articles 10<sup>1</sup>.1, 10<sup>1</sup>.2, 10<sup>1</sup>.4, 10<sup>1</sup>.5 of this law shall be the foundation for dismissal of the public official.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

None to report.

## **234. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(NO) No assistance would be required**

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

## 53. Measures for direct recovery of property

### 235. Subparagraph (a) of article 53

Each State Party shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit another State Party to initiate civil action in its courts to establish title to or ownership of property acquired through the commission of an offence established in accordance with this Convention;

#### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

According to Article 7.5 of CC of Mongolia “Coercive measures for confiscation of assets and income”, it is mandatory to confiscate the assets and income, proceeds and instruments of crime. Therefore, foreign request for confiscation may be enforced on the basis of the general provision of CC and CPC that regulates confiscation and MLA. Para 3 of this article stated “Confiscated assets and proceeds shall be disposed of indemnification and operational cost of investigation. Volume of the asset and proceeds are sufficient for the indemnification, part which exceeds the indemnification claim shall dispose to the state revenue.”

Article 34 of Law on Anticorruption stated that “Eliminating consequences of corruption crimes 34.1. Compensation of losses incurred due to corruption crime, the restoration of rights that have been violated, and the annulment of any illegal decisions, shall be governed in accordance with the Civil law and other relevant legislation.

Pursuant to general provision of Civil law of Mongolia, Article 497, para 1 of Civil law “A legal person /party/ who caused damage to others’ rights, life, health, dignity, business reputation or property deliberately or due to negligent action (inaction) shall compensate for that damage”, GPO can file motion to the court to confiscate the assets and proceeds incurred as a result of crime.

If the illicit asset is confirmed to be in Mongolia the under the task of prosecutors, law enforcement authorities can obtain information such as at first identify the person is registered as the beneficial owner, whether he or she has rights fully or partially to allocate the asset from the State registration authority. And if such assets should be found legally registered to any person, court of Mongolia shall issue an order in an ordinary procedure based on requests from foreign law enforcement bodies and court orders and with written notice of execution of court order under the Law on executing court orders, the asset shall be placed in auction to be sold and criminal proceeds shall be formed into money to be returned (recovered).

Also, claims regarding Mongolia citizens and legal entities abroad appealed to court in jurisdiction of appealing party or location of respondent’s property and disputes on ownership, possession, exploitation of immovable properties in Mongolia and court order execution actions carried out in Mongolia (mention appealed by person to carry out such actions) are qualified as unique jurisdiction cases and proceedings can be conducted. (Article 116, 190 of the Civil procedure law)

Article 7.3 of the Civil law “Aimags, the capital city, soums, districts, as state, administrative and territorial units, may enter into civil legal relation like other legal entities” and article 544.1 of this law “The determination of the legal capacity of foreign entities under the law of the state where such entities are registered shall be recognized by Mongolia”.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

In order to implement this regulation, under relevant agreements, conventions and Chapter 42 of the Criminal procedure law of Mongolia, the Independent Authority Against Corruption jointly with the General prosecutor's office submit request for legal assistance to foreign competent authorities. Also, as a State member of UNCAC, in order to identify the ownership of the illicit proceeds from committing a crime specified in the Convention, legal assistance requests can be submitted for civil actions to be opened in court and in this case the relevant information shall be obtained for proceedings under the legal framework.

Therefore, State Parties that has been harmed by party have the right to file an indemnification claim and irrecognition of this claim means that the return of the assets to another State Party is guaranteed. In cases when the MLA request is received under this convention and the above-mentioned Article is must be executed with reference to the domestic law and regulation relating to general provision of MLA.

Example: A request for mutual legal assistance in a criminal case against citizen "Z" was submitted in 2017 to the Ministry of Justice of Austria and in January and March 2018, an apartment, parking spot, basement with the value around 800,000 euros belonging to accused person in the criminal case and his spouse. The information is being used as evidence in the criminal case. Investigation against "Z" is still ongoing and after completion of investigation, a motion shall be submitted to the prosecutor to seize the assets abroad.

Example: A request for mutual legal assistance in criminal case against citizen "B" was submitted to the Department of Justice of the United States of America and partial execution materials were received in May and August and the remaining materials shall be received after its execution. IAAC has information and documents on immovable properties owned and sold in the US as well as bank account statements. After careful analysis of the information, it was found that a property with the value of 3,5 million USD was under active ownership of a related person in New York, USA. Actions are being carried out to seize the property with the Washington state Prosecutor's office.

## 236. Subparagraph (b) of article 53

Each State Party shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its courts to order those who have committed offences established in accordance with this Convention to pay compensation or damages to another State Party that has been harmed by such offences; and

### Is your country in compliance with this provision?

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Mongolia has established a legal framework for State victim claims in criminal proceedings. Regardless of where the crime was committed, investigation shall be conducted in Mongolia within legal framework and identify victim persons of right to live, health, and other rights, freedom, material and non-material damage as well as legal entity victims and compensate material and non-material damage caused from crimes and fulfil the requests of those persons and legal entities of which rights were violated as civil claimant and enlist them in criminal proceedings has be ensured. (Chapter 8, Articles 8.1, 8.5 of the Criminal procedure law)

Article 7.5 of the General part of the Criminal law of Mongolia constitutes forced measures on “Confiscation of assets and income”. Direct and indirect assets and income from committing crime is defined as material and non-material asset, its value and proceeds and equipment and tools utilized or planned to be utilized for committing a crime. Also, income and assets gained through committing a crime are allocated for damage compensation, criminal proceeding expenses and the leftover amount to the state budget. If the income and assets gained through committing a crime has transferred under legal binding agreements to the ownership of other then court shall evaluate the item and order proportionate amount to be confiscated from permitted assets and income of the individual or legal entity committing the crime.

Article 34 of the Anti-Corruption law of Mongolia states  
Compensation of losses incurred due to corruption crime, the restoration of rights that have been violated, and the annulment of any illegal decisions, shall be governed in accordance with the Civil law and other relevant legislation.

Article 497.1 of the Civil law of Mongolia states “The person who intentionally or accidentally caused illegal damage in act or omission to the right, health, honour, reputation, dignity, property of others shall be obligated to redeem the damage”.

Without recognizing the distinction of to whom or where the damage was caused from the crime, investigation is conducted and supervised by the prosecutor and transferred to court for prosecution under the Criminal procedure law and other legislation.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## 237. Subparagraph (c) of article 53

Each State Party shall, in accordance with its domestic law:

...

(c) Take such measures as may be necessary to permit its courts or competent authorities, when having to decide on confiscation, to recognize another State Party's claim as a legitimate owner of property acquired through the commission of an offence established in accordance with this Convention.

### Is your country in compliance with this provision?

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Article 7.5 of the General part of the Criminal law of Mongolia constitutes forced measures on "Confiscation of assets and income". Direct and indirect assets and income from committing crime is defined as material and non-material asset, its value and proceeds and equipment and tools utilized or planned to be utilized for committing a crime. Also, income and assets gained through committing a crime are allocated for damage compensation, criminal proceeding expenses and the leftover amount to the state budget. If the income and assets gained through committing a crime has transferred under legal binding agreements to the ownership of other then court shall evaluate the item and order proportionate amount to be confiscated from permitted assets and income of the individual or legal entity committing the crime.

Article 34 of the Anti-Corruption law of Mongolia states Compensation of losses incurred due to corruption crime, the restoration of rights that have been violated, and the annulment of any illegal decisions, shall be governed in accordance with the Civil law and other relevant legislation.

Article 491.1 of the Civil law of Mongolia specifies "A legal person who caused damage to others' rights, life, health, dignity, business reputation or property deliberately or due to negligent action (inaction) shall compensate for that damage".

Article 497.1 of the Civil law of Mongolia states "The person who intentionally or accidentally caused illegal damage in act or omission to the right, health, honour, reputation, dignity, property of others shall be obligated to redeem the damage".

Article 190 of the Civil procedure law states "Courts of Mongolia shall act on international civil matters such as disputes related to ownership, possession, exploitation of immovable properties on the territory of Mongolia and reorganization, liquidation of legal entities and decisions issued by its subsidiary and representative offices under its own unique jurisdiction" ...

If the illicit asset is confirmed to be in Mongolia the under the task of prosecutors, law enforcement authorities can obtain information such as at first identify the person is registered as the beneficial owner, whether he or she has rights fully or partially to allocate the asset from the State registration authority. And if such assets should be found legally registered to any person, court of Mongolia shall issue an order in an ordinary procedure based on requests from foreign law enforcement bodies and court orders and with written notice of execution of court order under the Law on executing court orders, the asset shall be placed in auction to be sold and criminal proceeds shall be formed into money to be returned (recovered).

Also, claims regarding Mongolia citizens and legal entities abroad appealed to court in jurisdiction of appealing party or location of respondent's property and disputes on ownership, possession, exploitation of immovable properties in Mongolia and court order execution actions carried out in Mongolia (mention appealed by person to carry out such actions) are qualified as unique

jurisdiction cases and proceedings can be conducted. (Article 116, 190 of the Civil procedure law)

Article 7.3 of the Civil law “Aimags, the capital city, soums, districts, as state, administrative and territorial units, may enter into civil legal relation like other legal entities” and article 544.1 of this law “The determination of the legal capacity of foreign entities under the law of the state where such entities are registered shall be recognized by Mongolia”.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

In order to implement this regulation, under relevant agreements, conventions and Chapter 42 of the Criminal procedure law of Mongolia, the Independent Authority Against Corruption jointly with the General prosecutor’s office submit request for legal assistance to foreign competent authorities. Also, as a State member of UNCAC, in order to identify the ownership of the illicit proceeds from committing a crime specified in the Convention, legal assistance requests can be submitted for civil actions to be opened in court and in this case the relevant information shall be obtained for proceedings under the legal framework.

Example: Two requests for mutual legal assistance in criminal case against citizen of Mongolia “B” was submitted to Mongolia from the General prosecutor’s office of Switzerland and after receiving the requests, investigation was conducted under the Convention and national legislation and the response to the requests have been sent.

Example: A request for exchange of information and investigation actions on corruption matters was submitted from the National financial prosecutor’s office of France was received and a criminal case was opened in connection with the request. After executing and responding to the request, a request for mutual legal assistance was submitted to France for the criminal case opened in Mongolia. Asset confiscation measures shall be taken upon receipt and analysis of the response.

## 238. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(LA) Legislative assistance: please describe the type of assistance**

- Include in the relevant law specific articles on damage and compensation related to asset recovery.
- Include in the Law on court order execution regulating documents on the decision-making subject regarding execution of foreign court orders and order execution procedure.

**(IB) Institution-building: please describe the type of assistance**

- In connection with the legal reform, law enforcement, prosecution and judicial have different application and understanding of laws. In order to resolve this matter, step by step actions such as training, meeting and discussion should be held.

**(CB) Capacity-building: please describe the type of assistance**

- Organize step by step trainings of illicit asset and income confiscation for staff officials.

**(IC) Facilitation of international cooperation with other countries: please describe the type of assistance**

Minimize the procedure for submitting mutual legal requests. (In Mongolia, MLA requests are submitted by the investigating body under the supervision of the prosecutor and the General Prosecutor's office and Ministry of Justice and home affairs, Ministry of Foreign affairs and diplomatic mission, which take much of the time)

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

## **54. Mechanisms for recovery of property through international cooperation in confiscation**

### **239. Subparagraph 1 (a) of article 54**

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State Party;

#### **Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Mongolia may render assistance for the request of execute confiscation request on the basis of foreign court order to confiscate the property under the general term and provision of CPC of Mongolia on the basis of the Article 42.4 of the CPC. For Mongolia, recognition of foreign confiscation orders have been designated competent courts in general term and procedure under domestic law.

GPO adopted Guidelines on Mutual Legal Assistance in Criminal Matters by the Decree A/16 of the Prosecutor General in February 2019. In this Guideline, a new provision on prioritizing the execution of requests for confiscation concealment of property, income derived from committing of crime and arms, tools, objects that were used to commit crime. It is explicitly stated that:

“...In case a foreign country made a request to confiscate, conceal property, income derived from committing a crime where such property or income is obtained, owned, used property, money, income by any person owned that property, income derived from committing a crime; or any person changed, transferred such property, money, income for the purpose to cover their illegal source, to assist in avoiding the person committed, jointly committed such a crime from criminal penalty; or any person covering true characteristic, source, location, way of disposal, ownership and the right to own of such property income; or such property, income derived from money laundering, authorized person shall strive to implement prompt mutual legal assistance...”.

The request for implementing a foreign court order to confiscate assets is received by the Ministry of Justice and Home affairs and submitted to the General prosecutor's office. A law enforcement body shall carry out the actions mentioned in the court order by investigating and presenting the case to the prosecutor's office and based on the result, the prosecutor can submit a motion to court for confiscating the asset.

The is no restriction in the Mongolian legislation on whether the court order to confiscate was issued at the investigation or conviction. Both orders can be executed in Mongolia.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

Example 1: Two requests for mutual legal assistance in criminal case against citizen of Mongolia “B” was submitted to Mongolia from the General prosecutor's office of Switzerland and after receiving the requests, investigation was conducted under the Convention and national legislation and the response to the requests have been sent. In connection with the response, a bank account has been frozen of a related person of “B”.

Example 2: A request for exchange of information and investigation actions on corruption matters

was submitted from the National financial prosecutor's office of France was received and a criminal case was opened in connection with the request. After executing and responding to the request, a request for mutual legal assistance was submitted to France for the criminal case opened in Mongolia. Asset confiscation measures shall be taken upon receipt and analysis of the response.

## 240. Subparagraph 1 (b) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities, where they have jurisdiction, to order the confiscation of such property of foreign origin by adjudication of an offence of money-laundering or such other offence as may be within its jurisdiction or by other procedures authorized under its domestic law; and

### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

According to Article 7.5 of CC of Mongolia “Coercive measures for confiscation of assets and income”, it is mandatory to confiscate the assets and income, proceeds and instruments of crime. Therefore, foreign request for confiscation may enforced on the basis of the general provision of CC and CPC that regulates confiscation and MLA

Article 34 of Law on Anticorruption stated that “Eliminating consequences of corruption crimes 34.1. Compensation of losses incurred due to corruption crime, the restoration of rights that have been violated, and the annulment of any illegal decisions, shall be governed in accordance with the Civil law and other relevant legislation.

Pursuant to general provision of Civil law of Mongolia, Article 497, para 1 of Civil law of Mongolia “A legal person /party/ who caused damage to others’ rights, life, health, dignity, business reputation or property deliberately or due to negligent action (inaction) shall compensate for that damage”, GPO can file motion to the court to confiscate the assets and income incurred as a result of crime.

Joint Decree №35/A/68 by June 2017 issued by the Chief Justice of the Supreme Court of Mongolia and General Prosecutor of Mongolia “Regulation for resolving confiscated assets, income, pledge of money, and material evidence in criminal case” was amended in Sep 2018 by the Decree №A/91.

By this amendment competent authorities of Mongolia should cooperate with other jurisdictions to identify and transfer assets for compensation of damages inflicted by criminal offence and conclude as follows: 10.3) In order to implement enforcement measures for compensation of damages and consequences caused by crime, confiscation and seizure of assets and income, cooperation agreement can be made with foreign counterpart, competent authority and legal person for necessary assistance besides MLA for identifying, preventing transfer, confiscating and seizing of hidden assets, income, and material evidence in the foreign country. 10.4) In accordance with the article 10.3 of this regulation, cost of the assistance from the foreign authority and legal person shall be determined by the agreement and counted to the criminal proceedings cost. 10.5) The agreement shall be made by the Prosecutor General of Mongolia, prosecutor and officer of investigation authorities of Mongolia authorized from Prosecutor General. 10.6) In the case of establishing agreement by prosecutor or officer of authority under article 10.5 of this regulation, the draft of the agreement shall be presented to the Prosecutor General prior to the establishment. 10.7) If the asset, income and material evidence are found, identified, frozen, confiscated and seized in the foreign country according to the agreement, the prosecutor in charge of the criminal case shall attach the agreement, place, valuation statement and legal form of the asset, income and material evidence to the profile of the criminal case.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

Implementation of this article of the Convention is not prohibited by the abovementioned law and other legislation.

Also, in order to gather intelligence for drafting MLA requests, good practice methods are used such as direct contact with international networks and competent authorities and MLA steps to freeze, seize and confiscate illegal assets and income in a foreign State.

This includes the following:

- National Interpol bureau - the National police agency is responsible for the network in Mongolia,
- ARIN-AP - 1 law enforcement official, 1 prosecutor are members of the Asset Recovery Interagency Network for Asia and the Pacific, which shares and assists in matters of recovering criminal proceeds,
- StAR Initiative, joint initiative of the UNODC and World Bank,
- General prosecutor's office signed MOUs and cooperates with more than 12 foreign prosecutor's offices.

The Independent Authority Against Corruption of Mongolia signed MOUs and cooperates with the Attorney general's office of Switzerland, Ministry of Justice of Austria, Department of Justice of USA, Serious fraud office of the UK, International anti-corruption coordination center, National finance prosecutor's office of France, Prosecutor General's office of Sweden, Supreme prosecutor's office of South Korea, Attorney general's chamber of Singapore, Department of Justice of Hong Kong SAR, Independent Commission Against Corruption of Hong Kong SAR, Eurojust in the Netherlands, Asset Recovery Interagency Network for Asia and the Pacific.

## 241. Subparagraph 1 (c) of article 54

1. Each State Party, in order to provide mutual legal assistance pursuant to article 55 of this Convention with respect to property acquired through or involved in the commission of an offence established in accordance with this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking such measures as may be necessary to allow confiscation of such property without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases.

### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Implementation of this article of the Convention is not prohibited by the abovementioned law and other legislation.

Also, in order to gather intelligence for drafting MLA requests, good practice methods are used such as direct contact with international networks and competent authorities and MLA steps to freeze, seize and confiscate illegal assets and income in a foreign State.

This includes the following:

- National Interpol bureau - the National police agency is responsible for the network in Mongolia,
- ARIN-AP - 1 law enforcement official, 1 prosecutor are members of the Asset Recovery Interagency Network for Asia and the Pacific, which shares and assists in matters of recovering criminal proceeds,
- StAR Initiative, joint initiative of the UNODC and World Bank,
- General prosecutor's office signed MOUs and cooperates with more than 12 foreign prosecutor's offices.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

The Independent Authority Against Corruption of Mongolia signed MOUs and cooperates with the Attorney general's office of Switzerland, Ministry of Justice of Austria, Department of Justice of USA, Serious fraud office of the UK, International anti-corruption coordination center, National finance prosecutor's office of France, Prosecutor General's office of Sweden, Supreme prosecutor's office of South Korea, Attorney general's chamber of Singapore, Department of Justice of Hong Kong SAR, Independent Commission Against Corruption of Hong Kong SAR, Eurojust in the Netherlands, Asset Recovery Interagency Network for Asia and the Pacific.

## 242. Subparagraph 2 (a) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

(a) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a freezing or seizure order issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article;

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Unless foreign MLA request contradict the sovereignty and security of Mongolia or to violate Mongolian legislation, GPO /prosecutor/ may issue freezing or seizure order upon foreign request issued by a court or competent authority of a requesting State Party that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation pursuant to Article 21.2 and of the CPC.

Also, article 21.5 of this law “If the court based on the mention of the prosecutor to reasonable that asset, income and evidence may cause damage to human health, nature, animals, negatively affect the public safety or the quality could be spoiled, ruined and cannot be returned to the owner then it can issue a decision seemingly accurate to transfer to the competent authority, an authority for storage, sale and place the money in a special account, or dispose of it”.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

If a foreign authority submits an MLA request for temporary confiscation or seizure, Mongolian authorities can execute the request. Or in other words, Mongolian law enforcement authorities shall act to seize the assets. The Criminal procedure law and bilateral agreements do not prohibit such actions.

## 243. Subparagraph 2 (b) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

...

(b) Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a request that provides a reasonable basis for the requested State Party to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation for purposes of paragraph 1 (a) of this article; and

### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Foreign MLA request for seizing or confiscating assets can be executed by the court and prosecutor's orders guided by article 21.2 of the Criminal procedure law "Asset confiscation". Also, article 21.5 of this law "If the court based on the mention of the prosecutor to reasonable that asset, income and evidence may cause damage to human health, nature, animals, negatively affect the public safety or the quality could be spoiled, ruined and cannot be returned to the owner then it can issue a decision seemingly accurate to transfer to the competent authority, an authority for storage, sale and place the money in a special account, or dispose of it".

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

If a foreign authority submits an MLA request for temporary confiscation or seizure, Mongolian authorities can execute the request. Or in other words, Mongolian law enforcement authorities shall act to seize the assets. The Criminal procedure law and bilateral agreements do not prohibit such actions.

## 244. Subparagraph 2 (c) of article 54

2. Each State Party, in order to provide mutual legal assistance upon a request made pursuant to paragraph 2 of article 55 of this Convention, shall, in accordance with its domestic law:

...

(c) Consider taking additional measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

### Is your country in compliance with this provision?

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Under Article 21.1 of the CPC and Prosecutorial Directive for Regulation regarding to manage and dispose of property, proceeds, physical evidence and money frozen, seized, or confiscated which adopted by the Decree A/80 of 2017 of the Prosecutor General of Mongolia, concludes relevant provision regarding frozen and confiscated assets and money.

Moreover, Article 3.2. of the Guideline for Mutual Legal Assistance in Criminal Matter covers these issues.

Article 3.2. Implementation of request for confiscation, concealment of property, income derived from committing of crime and arms, tools, objects that was used to commit crime

1. In case foreign country delivered request to confiscate, conceal property, income derived from committing of crime where such property or income is obtained, owned, used property, money, income by any person knows that property, income derived from committing of crime; or any person changed, transferred such property, money, income for the purpose to cover their illegal source, to help avoiding of the person committed, jointly committed such crime from criminal penalty; or any person covered real characteristic, source, location, way of disposal, ownership and right to own of such property income; or such property, income is derived from money laundering, authorized person shall strive to implement prompt mutual legal assistance.

2. During the implementation of foreign country's request to confiscate, conceal property, income derived from committing of crime, Criminal Procedure Law, other regulations about confiscation, preservation, receiving, keeping, securing, transferring shall be complied and followed. In addition, the following issues should be considered:

2.1. if beneficial owner is identified;

2.2. if confiscation and concealment violate interest of third party;

2.3. if property requires special transportation, keeping condition and/or security.

3. In case third party disputed about ownership of property, implementation of foreign country's request shall be delayed until final court resolution about ownership of property is officially issued.

4. In case property, income derived from committing of crime is found or identified, confiscation, concealment, limiting movement of property or account freezing measures can be taken for the purpose to prevent trade, transfer and/or destroying of such property, income.

5. Mongolian authorized organization shall negotiate with authorized organization of requested country about covering reasonable expenses such as storing, securing, assessing, transporting and/or maintenance costs.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## 245. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(LA) Legislative assistance: please describe the type of assistance**

- Draft a legislation based on the national system on MLA in criminal cases and qualifies international standards and present for adoption by the competent authority

**(IB) Institution-building: please describe the type of assistance**

- Research and prepare handbook on tracing, seizing, confiscating, recovering assets abroad and enlist staff members in such training and employ international experts

**(PM) Policymaking: please describe the type of assistance**

- Establish a working group of academics, practitioners, international experts and draft a manual and standard for financial investigation and utilize in action

**(CB) Capacity-building: please describe the type of assistance**

Increase foreign language knowledge and professional skills of staff members.

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

## 55. International cooperation for purposes of confiscation

### 246. Paragraph 1 of article 55

1. A State Party that has received a request from another State Party having jurisdiction over an offence established in accordance with this Convention for confiscation of proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention situated in its territory shall, to the greatest extent possible within its domestic legal system:

(a) Submit the request to its competent authorities for the purpose of obtaining an order of confiscation and, if such an order is granted, give effect to it; or

(b) Submit to its competent authorities, with a view to giving effect to it to the extent requested, an order of confiscation issued by a court in the territory of the requesting State Party in accordance with articles 31, paragraph 1, and 54, paragraph 1 (a), of this Convention insofar as it relates to proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, situated in the territory of the requested State Party.

#### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Prosecutor General's Office is decided to execute foreign request for seizure and confiscation, prosecutor or investigator shall issue order or provisional securing order to freeze and confiscate of objects and proceeds regarding confiscation of proceeds of crime, property, equipment or other instrumentalities, if the request deemed not contrary to national legislation and sovereignty of the state, court may grant foreign request in accordance with the general provision of the CPC.

Currently, a separate and special legislation for mutual legal assistance and asset recovery does not exist.

However, regardless of inexistence of legislation, the Independent Authority Against Corruption of Mongolia carries out its duties and cooperates with foreign authorities under UNCAC, Criminal procedure law, bilateral treaties.

Article 42.1 of the Criminal procedure law “Actions such as interview, search, examination, confiscation and other actions mentioned in this law to be executed on a territory of a foreign state shall be executed through international agreements and other treaties on mutual legal assistance”.

Article 42.2 of the Criminal procedure law “Execution of a foreign MLA request for investigative measures”.

In particular, The Investigation and Operations departments of IAAC submit MLA requests under the International cooperation and mutual legal assistance department of the General prosecutor's office.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

Example: A request for mutual legal assistance in a criminal case against citizen “Z” was submitted in 2017 to the Ministry of Justice of Austria and in January and March 2018, an apartment, parking

spot, basement with the value around 800,000 euros belonging to accused person in the criminal case and his spouse. The information is being used as evidence in the criminal case. Investigation against "Z" is still ongoing and after completion of investigation, a motion shall be submitted to the prosecutor to seize the assets abroad.

Example: A request for mutual legal assistance in criminal case against citizen "B" was submitted to the Department of Justice of the United States of America and partial execution materials were received in May and August and the remaining materials shall be received after its execution. IAAC has information and documents on immovable properties owned and sold in the US as well as bank account statements. After careful analysis of the information, it was found that a property with the value of 3,5 million USD was under active ownership of a related person in New York, USA. Actions are being carried out to seize the property with the Washington state Prosecutor's office.

## 247. Paragraph 2 of article 55

2. Following a request made by another State Party having jurisdiction over an offence established in accordance with this Convention, the requested State Party shall take measures to identify, trace and freeze or seize proceeds of crime, property, equipment or other instrumentalities referred to in article 31, paragraph 1, of this Convention for the purpose of eventual confiscation to be ordered either by the requesting State Party or, pursuant to a request under paragraph 1 of this article, by the requested State Party.

### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Please see information provided under Article 54 and 55.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

Example: A request for exchange of information and investigation actions on corruption matters was submitted from the National financial prosecutor's office of France was received and a criminal case was opened in connection with the request. After executing and responding to the request, a request for mutual legal assistance was submitted to France for the criminal case opened in Mongolia. Asset confiscation measures shall be taken upon receipt and analysis of the response.

## 248. Paragraph 3 of article 55

3. The provisions of article 46 of this Convention are applicable, mutatis mutandis, to this article. In addition to the information specified in article 46, paragraph 15, requests made pursuant to this article shall contain:

- (a) In the case of a request pertaining to paragraph 1 (a) of this article, a description of the property to be confiscated, including, to the extent possible, the location and, where relevant, the estimated value of the property and a statement of the facts relied upon by the requesting State Party sufficient to enable the requested State Party to seek the order under its domestic law;
- (b) In the case of a request pertaining to paragraph 1 (b) of this article, a legally admissible copy of an order of confiscation upon which the request is based issued by the requesting State Party, a statement of the facts and information as to the extent to which execution of the order is requested, a statement specifying the measures taken by the requesting State Party to provide adequate notification to bona fide third parties and to ensure due process and a statement that the confiscation order is final;
- (c) In the case of a request pertaining to paragraph 2 of this article, a statement of the facts relied upon by the requesting State Party and a description of the actions requested and, where available, a legally admissible copy of an order on which the request is based.

### Is your country in compliance with this provision?

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Article 42.2 of CPC of Mongolia specify general requirement and content of the MLA.

Moreover, Appendix-4, Article 7 of the Mutual Legal Assistance in Criminal Matter "Recommendation in Provision of Legal Assistance by Mongolia" specify as follows:

7.1. Criminal Procedure law allows wide range of legal assistances for the request made by foreign jurisdictions. Considering the nature of the assistance sought, the following information should be included:

**(b) A request in search and seizure:**

- If the request asks that a search be conducted, the requesting state must expressly identify the address of the individual or the legal entity to be searched, and include a list of the documents and items to be seized;
- an explanation of the relevance of the items or documents to be seized for the criminal case;
- submit an order issued by a competent national authority with respect to the seizure of the objects to be surrendered where the legal system of the requesting jurisdiction allows for it, or if the legal system of the requesting jurisdiction does not allow for it, provide an explanation of how a law enforcement agency in the requesting jurisdiction is obliged by the law of its jurisdiction to request the seizure of documents from foreign jurisdictions;
- seizure of items or documents, containing public or other secrets protected by the law, of items and documents, containing information about deposits and accounts of citizens in banks and other credit institutions is carried out based on an authorization of prosecution and any formal admissibility requirements, such as the format and content of associated witness statements required for production of the material in evidence in the Requesting State;
- when there is a need to proceed to a seizure of documents (including banking/financial ones), the organization or the bank where the documents are supposedly kept, number of account related to these documents, list of the documents to be seized and period of time for the seizure should be specified and any formal admissibility requirements, such as the format and content of associated witness statements required for production of the material in evidence in the Requesting State.

Also, relevant provision of the international treaty is directly applicable to the request.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

Please see information provided under Article 54, part 3 (a).

## 249. Paragraph 4 of article 55

4. The decisions or actions provided for in paragraphs 1 and 2 of this article shall be taken by the requested State Party in accordance with and subject to the provisions of its domestic law and its procedural rules or any bilateral or multilateral agreement or arrangement to which it may be bound in relation to the requesting State Party.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

The Government of Mongolia has signed treaties on mutual assistance in civil and criminal matters and extradition treaties with 19 States. More recently, Mongolia and Hong Kong SAR agreed to the terms of a draft treaty and it is at the final work stage.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

The Independent Authority Against Corruption of Mongolia signed MOUs and cooperates with the Attorney general's office of Switzerland, Ministry of Justice of Austria, Department of Justice of USA, Serious fraud office of the UK, International anti-corruption coordination center, National finance prosecutor's office of France, Prosecutor General's office of Sweden, Supreme prosecutor's office of South Korea, Attorney general's chamber of Singapore, Department of Justice of Hong Kong SAR, Independent Commission Against Corruption of Hong Kong SAR, Eurojust in the Netherlands, Asset Recovery Interagency Network for Asia and the Pacific.

## **250. Paragraph 5 of article 55**

5. Each State Party shall furnish copies of its laws and regulations that give effect to this article and of any subsequent changes to such laws and regulations or a description thereof to the Secretary-General of the United Nations.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please provide a reference to the date these documents were transmitted, as well as a description of any documents not yet transmitted.**

Ministry of Justice and Home Affairs of Mongolia is responsible to furnish copies of legislations, regulations and any subsequent additional changes, or their description thereof to the Secretary-General of the United Nations.

Ministry of Justice and Home Affairs of Mongolia has been registered as the “central authority” officially to UN Secretariat for representing its country on the issues related to the Convention against Corruption.

Delegation members from IAAC participated in UNCAC state members conference held in November 2017 in Austria and reported their actions in implementation of the Convention. Also, officials from IAAC participated in Implementation review meeting and International cooperation meeting held in November 2016 and meeting official of the Corruption and economic crimes division of UNODC to discuss cooperation and technical assistance and received recommendations on increasing public oversight.

## 251. Paragraph 6 of article 55

6. If a State Party elects to make the taking of the measures referred to in paragraphs 1 and 2 of this article conditional on the existence of a relevant treaty, that State Party shall consider this Convention the necessary and sufficient treaty basis.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Mongolian Parliament approved Law on ratification of the UNCAC in 27 October, 2007. In the part 1 of Article 15 of the Law on International treaties, it is defined that “In case Mongolia signed up to international treaty, Mongolian Parliament shall approve Law on ratification”.

Since UNCAC is ratified by the Parliament, the Convention is valid in Mongolian territory as its domestic legislations.

In addition, part 3 of Article 10 of the Constitution says “The international treaties to which Mongolia is a Party shall become effective as domestic legislation upon the entry into force of the laws on their ratification or accession”. Therefore, international agreements and principles or norms that are recognized commonly, particularly UNCAC is considered as part of legal system of Mongolia.

Court uses international treaty in its practice only if the treaty was officially published but not just became effective. In addition to the part 3 of Article 10, part 3 of Article 26 and part 3 of Article 50 of the Constitution indicates that “Parliament is responsible for publication of Mongolian legislations officially. If there is no other provision in the Law, it becomes effective after 10 days of its official publication”, and “The Supreme court and other courts have no right to use legislation that is not published officially”.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## 252. Paragraph 7 of article 55

7. Cooperation under this article may also be refused or provisional measures lifted if the requested State Party does not receive sufficient and timely evidence or if the property is of a *de minimis* value.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Mongolia has no de minimis rule, therefore the low value of the proceeds of the crime is not an obstacle in executing the request.

Under our domestic law has set forth following mandatory grounds of refusal to rendering assistance, if the request does not meet requirement provided in the CPC and treaty, contradicts sovereignty and security of Mongolia or if the execution of the request inflicts in violation of the law (See Criminal Procedure law Article 42.4 para 4). Within the timeframe, if requesting state fails to provide necessary details and additional evidences, the request is rejected by the prosecutor.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above

### **253. Paragraph 8 of article 55**

8. Before lifting any provisional measure taken pursuant to this article, the requested State Party shall, wherever possible, give the requesting State Party an opportunity to present its reasons in favour of continuing the measure.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

If the court considers that the provisional securing is no longer necessary, it shall invite the public prosecutor to make a statement about it within a specified time limit. If the public prosecutor does not make a statement within the time limit or if he does not oppose the abolition of provisional securing, the court shall abolish the provisional securing.”

As cited, CPA does not predict an opportunity for the requesting State Party to present its reasons in favour of continuing the measure. But it is very likely that the state prosecutor would ask the requesting State Party for an opinion, as the provisional securing was ordered on behalf of its request.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## 254. Paragraph 9 of article 55

9. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Mongolia is also available to enter to arrangements for repatriation of assets in accordance with the relevant provisions of UNCAC and UNTOC.

During the implementation of foreign country's request to confiscate, conceal property, income incurred as a result of crime the following issues should be taken into account under the Article of the 3.2 para 2 of the Guideline of Mutual Legal Assistance in criminal matter.

- 1). if the beneficial owner is identified;
- 2). if the confiscation and concealment violate interests of third party;
- 3). if the property requires special transportation, keeping condition and/or security.

In case of third-party disputed about ownership of property, implementation of foreign country's request shall be delayed until final court resolution about ownership of property is officially issued.

In case of property, income derived from committing a crime is found or identified, confiscation, concealment, limiting movement of property or account freezing measures can be taken for the purpose of preventing trade, transfer and/or destroying of such property, income.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## **255. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(LA) Legislative assistance: please describe the type of assistance**

For Mongolia, to advance article 42 of the Criminal procedure law on mutual legal assistance and draft handbooks on tracing, seizing, confiscating and returning assets and train officials and invite international experts.

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

## 56. Special cooperation

### 256. Article 56

Without prejudice to its domestic law, each State Party shall endeavour to take measures to permit it to forward, without prejudice to its own investigations, prosecutions or judicial proceedings, information on proceeds of offences established in accordance with this Convention to another State Party without prior request, when it considers that the disclosure of such information might assist the receiving State Party in initiating or carrying out investigations, prosecutions or judicial proceedings or might lead to a request by that State Party under this chapter of the Convention.

#### Is your country in compliance with this provision?

(Y) Yes

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Prosecution Office and law enforcement agencies encourage to use broad international informal information sharing mechanisms to ensure that relevant and accurate information is provided to the requested country to allow it to understand and assess the requests.

Article 2.1. (Requesting to conduct investigation in the territory of other States.) of "Guidance on Mutual Legal Assistance" issued by GPO states that competent authorities should collect all necessary information from open source, international and regional informal information sharing networks.

Prosecution Office has designed appropriate legal framework for efficient international cooperation. According to the article 48.1.12 of the Law on the Prosecution Service of Mongolia, the Prosecutor General shall have the right to establish direct contact and cooperate with foreign competent authorities and other international organizations on the subject of mutual legal assistance and tackling crime. Within the last two years GPO signed 10 MOU's and established two agreements to facilitate and secure swift exchange of information.

Prosecution Office has also become a member and exercise duty of a national point of contact of ARIN-AP. It also supports and regularly participates in activities of ARIN-AP.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

In framework of obtaining evidence through formal and informal channels for investigation corruption and money laundering, the Independent Authority Against Corruption cooperates and exchanges information with Attorney general's office of Switzerland, Ministry of Justice of Austria, Department of Justice of USA, Serious fraud office of the UK, International anti-corruption coordination center, National finance prosecutor's office of France, Prosecutor General's office of Sweden, Supreme prosecutor's office of South Korea, Attorney general's chamber of Singapore, Department of Justice of Hong Kong SAR, Independent Commission Against Corruption of Hong Kong SAR, Eurojust in the Netherlands, Asset Recovery Interagency Network for Asia and the Pacific.

In 2018, a delegation of Investigation and Operations departments officials lead by the General director of IAAC visited Hong Kong SAR, the Netherlands, United Kingdom and meet with competent officials and in results, the competent authorities provided IAAC with information for investigation and upon receipt of such information, requests for mutual legal assistance was drafted and information was obtained as evidence.

Also, information on suspicious transactions related money laundering with the predicate offence of

corruption has been collected and information regarding illicit assets abroad and transaction reports have been shared with the competent authorities.

## **257. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(IC) Facilitation of international cooperation with other countries: please describe the type of assistance**

Further on, the Independent Authority Against Corruption plans to continue bilateral meetings with foreign special authorities and strengthen cooperation and exchange information through informal channels to further gather evidence for presentation to the competent prosecutors to issue a court order for seizure and confiscation. In some cases, to conduct analysis on the intelligence obtained through an informal channel and opened a criminal case in Mongolia and share the findings with the foreign competent authority and if the competent foreign authorities should submit an MLA request with a court confiscation order, such order shall be presented to Mongolian courts to be officialized.

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

## 57. Return and disposal of assets

### 258. Paragraph 1 of article 57

1. Property confiscated by a State Party pursuant to article 31 or 55 of this Convention shall be disposed of, including by return to its prior legitimate owners, pursuant to paragraph 3 of this article, by that State Party in accordance with the provisions of this Convention and its domestic law.

#### Is your country in compliance with this provision?

(P) Yes, in part

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Property confiscated by Mongolia can be disposed of, including by return to its prior legitimate owners.

In accordance with the provisions of this Convention and its domestic law, confiscated property shall be disposed of, including by return to its prior legitimate owners.

Article 7.5, Para 3 of CCM stated “Confiscated assets and proceeds shall be disposed of indemnification and operational cost of investigation. Volume of the asset and proceeds are sufficient for the indemnification, extra revenue shall dispose to the state revenue.”

Example:

*Currently, only the case on Money laundering exists with regard returning the property confiscated in Mongolia to the foreign legitimate owner.*

In accordance to asset confiscation sanctions by the conviction of the court, Republic of Korea against Korean citizen Ann Jae Man, the Supreme Public Prosecutors office of Korea sent request for asset recovery to the Office of the Prosecutor General of Mongolia.

The asset was named as “Richfield hotel”, which was returned to Korean side.

Criminal court of the Chingeltei district issued execution notice 373 in compliance to verdict issued by Court of the Seoul city, Korea “to draw Korean won in the amount of 4,879,426,600 equal to US\$ 4,500,000 from owner of Richfield hotel Mr. Ann Jae Man”.

Currently, there are no registration of any foreign requests for holding and freezing assets submitted under the mutual legal assistance treaty.

The procedure law of Mongolia includes the following articles related to holding, freezing assets, compensating damage, storing evidence:

Mutual legal assistance in criminal matters is regulated by Chapter 42 of the Criminal procedure law.

Article 42.1. Request for investigation actions

Article 42.1 of the Criminal procedure law “Actions such as interview, search, examination, confiscation and other actions mentioned in this law to be executed on a territory of a foreign state shall be executed through international agreements and other treaties on mutual legal assistance”.

Chapter 21 of this law specifies actions related to confiscated income and assets and evidence.

Article 21.1. Storage of confiscated income and assets and evidence

1. Judge, prosecutor, investigator, competent officials shall be responsible for storage and protection of confiscated assets, income and evidence.

2. Confiscated proceeds, assets and evidence shall be kept in a special facility until the court order comes into effect, or dismissal of the order to open a criminal case and charge the

defendant or appeal the court order to dismiss the criminal case or appeal period and a record of should storage shall be included in the criminal case.

3. Confiscated national and foreign currencies shall be placed in a special account.
4. Based on the participants request, court and prosecution can include in their decision where to store the confiscated proceeds, assets and evidence.
5. National and foreign currencies used as criminal tool and confiscated as evidence shall not be included in sub-article 3.
6. Proceeds, assets, evidence, experiment objects requiring special storage and protection can be stored at a different organization under the request of Judge, prosecutor, investigator, competent officials, forensic expert.
7. As specified in sub-article 6, organizations and officials entrusted with storage, protection and control of confiscated proceeds, assets, evidence and examination objects shall be responsible it.

#### Article 21.2. Seizure of assets

1. Assets of the defendant and accused persons shall be seized under the decision of a judge and prosecutor in order to compensate damage and to eliminate the consequences and execute forced confiscation of proceeds and assets.
2. If the evidence confiscated by the decision of a judge and prosecutor should be large by size or for other reasons unable to store, the investigator will seize at the site.
3. While seizing the asset, it is prohibited to transfer, dispose, change, allocate, move the assets to others and he/she or other persons shall be obligated to store and protect.
4. Investigator shall pass the asset to the entrusted person for storage and protection and inform him/her about the legal consequences and ask to sign.
5. While seizing the asset, as specified in the Law on executing court orders, possessions required for daily use should not be seized.
6. Seizure of assets can be conducted at the same time as confiscation and search actions.

#### Article 21.3. Storage period for confiscated proceeds, assets and evidence

1. Evidence shall be kept until court order comes into effect or appeal period for dismissing criminal case.
2. If a civil action should occur on claims regarding possession of confiscated proceeds, assets and evidence then it will be kept until the court order comes into effect.

#### Article 21.4. Transfer of confiscated proceeds, assets and evidence

1. If the criminal case is assigned to a different investigator or submitted to court, then confiscated and seized proceeds, assets and evidence will also transfer as well.
2. During the transfer of the case, if for reasons of large seize or other reasons should the proceeds, assets and evidence unable for transfer then until court decision it will be kept and this will be included in the case.
3. If the object for examination should be unable for transfer or transportation, the authority or official will ensure to the expert free access to the object and condition for its examination.

#### 21.5. Settling the confiscated or seized proceeds, assets and evidence

1. If the court based on the mention of the prosecutor to reasonable that asset, income and evidence may cause damage to human health, nature, animals, negatively affect the public safety or the quality could be spoiled, ruined and cannot be returned to the owner then it can issue a decision seemingly accurate to transfer to the competent authority, an authority for storage, sale and place the money in a special account, or dispose of it”.
  - 1.1. Transfer to the appropriate authority required;
  - 1.2. Transfer to the appropriate authority for storage;
  - 1.3. Sell and place the income in special account;
  - 1.4. Transfer to the appropriate authority for disposal.
2. If the proceed, asset and evidence was transferred, stored, sold, disposed under sub-article 1 then under the court order the same type or same quality item shall be provided or the price will be paid.
3. Prosecutor and experts shall join the action mentioned sub-article 1 and protocol shall be written and documents about the disposal, transfer, sale of the proceed, assets and evidence will be included in the case materials.

#### 493.6. The party which acquired property in dishonest way or the party that acquired in legal way

but learned about the lack of ground to own, it shall return the property, all the revenues earned and potential profits lost from the moment one acquired or learned about the legal default of the property.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

Currently, only the case on Money laundering exists with regard returning the property confiscated in Mongolia to the foreign legitimate owner.

In accordance to asset confiscation sanctions by the conviction of the court, Republic of Korea against Korean citizen Ann Jae Man, the Supreme Public Prosecutors office of Korea sent request for asset recovery to the Office of the Prosecutor General of Mongolia.

The asset was named as “Richfield hotel”, which was returned to Korean side.

Criminal court of the Chingeltei district issued execution notice 373 in compliance to verdict issued by Court of the Seoul city, Korea “to draw Korean won in the amount of 4,879,426,600 equal to US\$ 4,500,000 from owner of Richfield hotel Mr. Ann Jae Man”.

## 259. Paragraph 2 of article 57

2. Each State Party shall adopt such legislative and other measures, in accordance with the fundamental principles of its domestic law, as may be necessary to enable its competent authorities to return confiscated property, when acting on the request made by another State Party, in accordance with this Convention, taking into account the rights of bona fide third parties.

### Is your country in compliance with this provision?

(P) Yes, in part

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Article 10, paragraph 3 of Constitution of Mongolia “International treaties to which Mongolia is a Party, shall become effective as local legislation, upon the entry into force of the laws on their ratification or accession” shall be chartered. (<<http://www.legalinfo.mn/law/details/367>>)

Provision of the CPC and its procedural guidelines are enabled for prosecutors and investigators to return confiscated property to foreign State party.

Article 42.4 of the Criminal procedure law. Execution of foreign MLA requests submitted by foreign competent authorities

1. Judge, prosecutor, investigator shall execute foreign MLA request under the common procedure specified in this law.
2. Existence of an MLA treaty established with the requesting then foreign investigation norms shall be applied.
3. If specified in international treaties, representatives from foreign competent authorities can be present in investigation actions.
4. Under the following circumstances, if not specified differently in international agreements and treaties, the reasons for non-executions and documents received shall be returned to the foreign authority through the General prosecutor’s office:
  - 4.1. In compliance of this law and requirements specified in international treaties related to the matter.
  - 4.2. Causing harm to the State sovereignty and safety.
  - 4.3. Violation of Mongolian law.

Article 43.6 of this law. Transfer of property and other evidence

1. Under the procedure specified in this law, while extraditing a foreign citizen, aliens to a foreign state, tools and other items, as well as items obtained through committing a crime and other necessary evidence shall be transferred together.
2. If evidence mentioned in sub-article 1 of this article should be required for prosecution of another case then transfer can be refused.
3. If sub-article 2 of this article should be applied, transfer shall be held when the foreign competent authority shall provide a guarantee of return of the items mentioned in sub-article 1 after conviction.

Article 235 Civil law of Mongolia. Contract on transferring property to ownership to ensure performance of obligation

235.6. If property possession rights have been transferred under basis of fiduciary to a third party in order to ensure the performance of obligation then the third party shall act in possession and control the assets on behalf of the assuring party’s interest through a procedure of asset trustee agreement specified in article 37 of this law.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## 260. Subparagraph 3 (a) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

(a) In the case of embezzlement of public funds or of laundering of embezzled public funds as referred to in articles 17 and 23 of this Convention, when confiscation was executed in accordance with article 55 and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party;

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

It is possible to return proceeds of embezzled public, state funds through corruption to its sole owner of State.

Please see detail information provided for Article 55 paragraph 1.

Guidelines on Mutual Legal Assistance in Criminal Matters by the Decree A/16 of the Prosecutor General in February 2019 stated that:

“...In case a foreign country made a request to confiscate, conceal property, income derived from committing a crime where such property or income is obtained, owned, used property, money, income by any person owned that property, income derived from committing a crime; or any person changed, transferred such property, money, income for the purpose to cover their illegal source, to assist in avoiding the person committed, jointly committed such a crime from criminal penalty; or any person covering true characteristic, source, location, way of disposal, ownership and the right to own of such property income; or such property, income derived from money laundering, authorized person shall strive to implement prompt mutual legal assistance...”.

Requests with court order to confiscate assets related to embezzlement of public funds submitted from a State member can be executed (can also be refused by the receiving party) and returned under this article 55. However, there are no registration of such requests.

Article 42.4 of the Criminal procedure law. Execution of foreign MLA requests submitted by foreign competent authorities

1. Judge, prosecutor, investigator shall execute foreign MLA request under the common procedure specified in this law.

2. Existence of an MLA treaty established with the requesting then foreign investigation norms shall be applied.

3. If specified in international treaties, representatives from foreign competent authorities can be present in investigation actions.

4. Under the following circumstances, if not specified differently in international agreements and treaties, the reasons for non-executions and documents received shall be returned to the foreign authority through the General prosecutor's office:

4.1. In compliance of this law and requirements specified in international treaties related to the matter.

4.2. Causing harm to the State sovereign and safety.

4.3. Violation of Mongolian law.

Article 43.6 of this law. Transfer of property and other evidence

1. Under the procedure specified in this law, while extraditing a foreign citizen, aliens to a foreign state, tools and other items, as well as items obtained through committing a crime and other necessary evidence shall be transferred together.

2. If evidence mentioned in sub-article 1 of this article should be required for prosecution of another case then transfer can be refused.

3. If sub-article 2 of this article should be applied, transfer shall be held when the foreign competent authority shall provide a guarantee of return of the items mentioned in sub-article 1 after conviction.

Article 34. Eliminating consequences of corruption crimes

34.1. Compensation of losses incurred due to corruption crime, the restoration of rights that have been violated, and the annulment of any illegal decisions, shall be governed in accordance with the Civil law and other relevant legislation.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## 261. Subparagraph 3 (b) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

...

(b) In the case of proceeds of any other offence covered by this Convention, when the confiscation was executed in accordance with article 55 of this Convention and on the basis of a final judgement in the requesting State Party, a requirement that can be waived by the requested State Party, return the confiscated property to the requesting State Party, when the requesting State Party reasonably establishes its prior ownership of such confiscated property to the requested State Party or when the requested State Party recognizes damage to the requesting State Party as a basis for returning the confiscated property;

### Is your country in compliance with this provision?

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

If assets are confiscated based on a court final order of a State member (the receiving party can also refuse to execute) and the ownership of the asset was reasonably proven in the receiving state or the receiving state deemed necessary to return the asset in order to compensate the damage, the assets can be returned to the requesting state. Such request has not been received. The request shall be regulated under the following articles:

Article 42.4 of the Criminal procedure law. Execution of foreign MLA requests submitted by foreign competent authorities

1. Judge, prosecutor, investigator shall execute foreign MLA request under the common procedure specified in this law.
2. Existence of an MLA treaty established with the requesting then foreign investigation norms shall be applied.
3. If specified in international treaties, representatives from foreign competent authorities can be present in investigation actions.
4. Under the following circumstances, if not specified differently in international agreements and treaties, the reasons for non-executions and documents received shall be returned to the foreign authority through the General prosecutor's office:
  - 4.1. In compliance of this law and requirements specified in international treaties related to the matter.
  - 4.2. Causing harm to the State sovereignty and safety.
  - 4.3. Violation of Mongolian law.

Article 43.6 of this law. Transfer of property and other evidence

1. Under the procedure specified in this law, while extraditing a foreign citizen, aliens to a foreign state, tools and other items, as well as items obtained through committing a crime and other necessary evidence shall be transferred together.
2. If evidence mentioned in sub-article 1 of this article should be required for prosecution of another case then transfer can be refused.
3. If sub-article 2 of this article should be applied, transfer shall be held when the foreign competent authority shall provide a guarantee of return of the items mentioned in sub-article 1 after conviction.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## 262. Subparagraph 3 (c) of article 57

3. In accordance with articles 46 and 55 of this Convention and paragraphs 1 and 2 of this article, the requested State Party shall:

...

(c) In all other cases, give priority consideration to returning confiscated property to the requesting State Party, returning such property to its prior legitimate owners or compensating the victims of the crime.

### Is your country in compliance with this provision?

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

The requesting MLA procedures are regulated by the law on Criminal Procedure, Chapter 42.

Accordingly, the requesting party can secure its ownership rights provided that the requesting party validates its legitimate ownership of assets/properties that are acquired through criminal exploits.

In all cases, requests from State members for confiscating and returning the assets and it is prioritized to return the assets to the rightful owner, to compensate the damage caused in relation to the crime. Such requests shall be executed under the following articles:

Article 42.4 of the Criminal procedure law. Execution of foreign MLA requests submitted by foreign competent authorities

1. Judge, prosecutor, investigator shall execute foreign MLA request under the common procedure specified in this law.

2. Existence of an MLA treaty established with the requesting then foreign investigation norms shall be applied.

3. If specified in international treaties, representatives from foreign competent authorities can be present in investigation actions.

4. Under the following circumstances, if not specified differently in international agreements and treaties, the reasons for non-executions and documents received shall be returned to the foreign authority through the General prosecutor's office:

4.1. In compliance of this law and requirements specified in international treaties related to the matter.

4.2. Causing harm to the State's sovereignty and safety.

4.3. Violation of Mongolian law.

Article 43.6 of this law. Transfer of property and other evidence

1. Under the procedure specified in this law, while extraditing a foreign citizen, aliens to a foreign state, tools and other items, as well as items obtained through committing a crime and other necessary evidence shall be transferred together.

2. If evidence mentioned in sub-article 1 of this article should be required for prosecution of another case then transfer can be refused.

3. If sub-article 2 of this article should be applied, transfer shall be held when the foreign competent authority shall provide a guarantee of return of the items mentioned in sub-article 1 after conviction.

Article 21.2. Seizure of assets

1. Assets of the defendant and accused persons shall be seized under the decision of a judge and prosecutor in order to compensate damage and to eliminate the consequences and execute forced confiscation of proceeds and assets.

Article 34. Eliminating consequences of corruption crimes

34.1. Compensation of losses incurred due to corruption crime, the restoration of rights that have

been violated, and the annulment of any illegal decisions, shall be governed in accordance with the Civil law and other relevant legislation.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## 263. Paragraph 4 of article 57

4. Where appropriate, unless States Parties decide otherwise, the requested State Party may deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposition of confiscated property pursuant to this article.

**Is your country in compliance with this provision?**

**(P) Yes, in part**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Article 11.6, part 1 of the Criminal procedure law states that “Based on the relevant document, any cost associated with criminal procedure shall be compensated by defendant in case the defendant be found guilty”.

The Criminal procedure law and the law on Criminal investigation and charge regulates procedures relating to cost compensation of prosecution operations as:

Prosecutor General may enter settlement with foreign competent authority to recover the assets in accordance with UNCAC provision.

On the basis of UNCAC provision, article 3.2. para 5 of the Guideline for Mutual Legal Assistance in Criminal Matter was introduced.

This provision allows to deduct reasonable expenses incurred in investigations, prosecutions or judicial proceedings leading to the return or disposition of confiscated property which cited “5. Mongolian authorized organization shall negotiate with authorized organization of requested country about covering reasonable expenses such as storing, securing, assessing, transporting and/or maintenance costs.”

Moreover, Article 10 of the amendment to the Joint Decree №35/A/68 by June 2017 issued by the Chief Justice of the Supreme Court of Mongolia and General Prosecutor of Mongolia, the “Regulation for resolving confiscated assets, income, pledge of money, and material evidence in criminal case” stated as follow:

10.4) In accordance with the article 10.3 of this regulation, cost of the assistance from the foreign authority and legal person shall be determined by the agreement and counted to the criminal proceedings cost”.

10.5) The agreement shall be made by the Prosecutor General of Mongolia, prosecutor and officer of investigation authorities of Mongolia authorized from Prosecutor General.

10.7) If the asset, income and material evidence are found, identified, frozen, confiscated and seized in the foreign country according to the agreement, the prosecutor in charge of the criminal case shall attach the agreement, place, valuation statement and legal form of the asset, income and material evidence to the profile of the criminal case.

As specified, if the State member has not convicted (court order issued) then the receiving party state can exclude appropriate costs related to investigation, prosecution and judicial proceedings in order to return the asset for allocation. There not been any requests. However, if such request should be made, it can be executed under the following law and Government resolution:

Article 1.4 of the Criminal procedure law “Criminal proceedings related expenses”

1. The following costs shall be included in the criminal proceedings related costs:

1.1. Cost for victim, their legal representative, witness, external witness, expert, specialist,

translator, interpreter, lawyer;

1.2. Cost related to storage, transfer, examination of evidence;

1.3. Cost related to searching defendants and accused person fleeing from inquiry,

investigation, prosecution and court proceedings;

- 1.4. Cost related to forced attendance of witness, victim, expert, defendant, accused person and delay of court proceedings without any reasonable causes;
- 1.5. Other direct costs related criminal proceedings;

2. The Government of Mongolia shall adopt a procedure for calculating and financing criminal proceedings costs.

The “Procedure for calculating and financing criminal proceedings costs” was adopted by the Government resolution number 161 dated 2018.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## 264. Paragraph 5 of article 57

5. Where appropriate, States Parties may also give special consideration to concluding agreements or arrangements, on a case-by-case basis, for the final disposal of confiscated property.

**Is your country in compliance with this provision?**

**(P) Yes, in part**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

By the amendment to the Joint Decree №35/A/68 by June 2017 issued by the Chief Justice of the Supreme Court of Mongolia and General Prosecutor of Mongolia, the “Regulation for resolving confiscated assets, income, pledge of money, and material evidence in criminal case”, competent authorities of Mongolia should cooperate with other jurisdictions to identify and transfer assets for compensation of damages inflicted by criminal offence and conclude as follows:

10.3) In order to implement enforcement measures for compensation of damages and consequences caused by crime, confiscation and seizure of assets and income, cooperation agreement can be made with foreign counterpart, competent authority and legal person for necessary assistance besides MLA for identifying, preventing transfer, confiscating and seizing of hidden assets, income, and material evidence in the foreign country.

10.4) In accordance with the article 10.3 of this regulation, cost of the assistance from the foreign authority and legal person shall be determined by the agreement and counted to the criminal proceedings cost.

10.5) The agreement shall be made by the Prosecutor General of Mongolia, prosecutor and officer of investigation authorities of Mongolia authorized from Prosecutor General.

10.6) In the case of establishing agreement by prosecutor or officer of authority under article 10.5 of this regulation, the draft of the agreement shall be presented to the Prosecutor General prior to the establishment.

10.7) If the asset, income and material evidence are found, identified, frozen, confiscated and seized in the foreign country according to the agreement, the prosecutor in charge of the criminal case shall attach the agreement, place, valuation statement and legal form of the asset, income and material evidence to the profile of the criminal case.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## 265. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(CB) Capacity-building: please describe the type of assistance**

- Independent authority against corruption together with the StAR program of the World Bank carried out the "Discovery of the stolen assets and asset recovery capacity building" program from 01 May, 2013 to 30 Nov. 2015. In the program, investigators and prosecutors attended to the trainings for different level.
- The guidance book for Mongolian legal organizations was developed with assistance of StAR initiatives in 2015 on "Mutual legal assistance of criminal procedure".

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

Prosecutors from the Capital city prosecutor's office participated in the 5 days joint training with StAR and IAAC which was conducted in April, 2019 by the subject related to Money laundering and Asset recovery.

## 58. Financial intelligence unit

### 266. Article 58

States Parties shall cooperate with one another for the purpose of preventing and combating the transfer of proceeds of offences established in accordance with this Convention and of promoting ways and means of recovering such proceeds and, to that end, shall consider establishing a financial intelligence unit to be responsible for receiving, analysing and disseminating to the competent authorities reports of suspicious financial transactions.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

The Financial Information Unit was established in 2006 within the structure of the Bank of Mongolia. The core functions of FIU is to receive reports of suspicious transactions from financial institutions, other natural persons and entities, to analyze them, and to disclose the results to local law-enforcement organizations and foreign FIUs to combat money laundering; and if there are sufficient grounds to suspect that the given transaction had the purpose of money laundering or terrorism financing, then it shall be disseminated to competent law enforcement authorities and anti-terrorism agencies according to the regulation and to compile database on reports of suspicious, cash and non-cash transactions submitted to the competent authorities. Moreover, the FIU cooperates with foreign institutions and international organizations which conduct similar activities and have similar confidentiality requirements imposed by law. In 25 May 2009 Mongolia has joined Egmont Group, an international group of FIUs of the world, and has officially fully admitted the cooperation and information sharing with the Financial Intelligence Units of 155 countries. Also, FIU Mongolia has cooperation MOU with 19 other foreign countries FIUs.

The Cooperation Council, with functions to ensure the implementation of laws related to combating the money laundering and terrorism financing, exchange information, mitigate risk and prepare recommendations on preventative measures is established at the Financial Information Unit. The Cooperation Council consists of representatives of Ministries in charge of foreign relation, finance, justice, Prosecutor office, Bank of Mongolia, Financial regulatory commission, Law enforcement authorities, organizations responsible of combating terrorism financing, taxation and custom authorities and the Financial Information Unit.

Under the April 2018 amendments of the AML/CFT Law, the National Committee was established under the Prime Minister, with function to draft national AML/CFT policy, strategy to be approved by the Government and to take policy decisions to implement it. The National Committee is chaired by the Member of the Government in charge of legal affairs, should be consisted of representatives of Member of the Government in charge of finance, Member of the Government in charge of foreign affairs, Prosecutor office, Bank of Mongolia, Financial regulatory commission, Law enforcement authorities, organizations responsible of combating terrorism financing, taxation and custom authorities and the Financial Information Unit. The function of secretariat of the National Committee is performed by the Financial Information Unit.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## 267. Technical Assistance

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(IC) Facilitation of international cooperation with other countries: please describe the type of assistance**

In the recent years, trends to conceal their assets through laundering money in offshore zones have increased. In relation to this matter, an amendment was made in the Regulation on public and private interest in public office and prevention of conflict of interest law and public officials and their related persons (person with common interest) are prohibited to own bank accounts in offshore zones and are required to close such account and report about the closure to the Independent Authority Against Corruption. However, the Independent Authority Against Corruption is still facing difficulties in obtaining and inspecting bank account information, therefore, there is a further need to establish treaties on mutual legal assistance in civil, criminal and administrative matters with financial center countries such as Hong Kong SAR and Singapore.

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

## 59. Bilateral and multilateral agreements and arrangements

### 268. Article 59

States Parties shall consider concluding bilateral or multilateral agreements or arrangements to enhance the effectiveness of international cooperation undertaken pursuant to this chapter of the Convention.

**Is your country in compliance with this provision?**

**(Y) Yes**

**Please describe (cite and summarize) the measures/steps your country has taken, if any, (or is planning to take, together with the related appropriate time frame) to ensure full compliance with this provision of the Convention.**

Including 19 agreements on rendering mutual legal assistance in criminal matters, Mongolia signed 35 bilateral treaties with 23 jurisdictions in total. Mongolia is a party to a range of international instruments relating to MLA, that provides provision of asset recovery and mutual legal assistance.

Prosecution Office and law enforcement agencies encourage to use broad international informal information sharing mechanisms to ensure that relevant and accurate information is provided to the requested country to allow it to understand and assess the requests.

Article 2.1. (Requesting to conduct investigation in the territory of other States.) of "Guidance on Mutual Legal Assistance" issued by GPO states that competent authorities should collect all necessary information from open source, international and regional informal information sharing networks.

GPO has designed appropriate legal framework for efficient international cooperation. According to the article 48.1.12 of the Law on the Prosecution Service of Mongolia, the Prosecutor General shall have the right to establish direct contact and cooperate with foreign competent authorities and other international organizations on the subject of mutual legal assistance and tackling crime. Within the last two years GPO signed 10 MOU's and established two agreements to facilitate and secure swift exchange of information.

GPO has also become a member and exercise duty of a national point of contact of ARIN-AP. It also supports and regularly participates in activities of ARIN-AP.

In case for Mongolia, per notification officially submitted to the UN Secretary-General, the "central authority" for implementation of UNCAC or provision of mutual legal assistance, transfer of offenders, seizure, confiscation and asset recovery, is the Ministry of Justice and Home Affairs.

In case of foreign request completion process is that the Ministry of Justice send the foreign country request to the Office of the Prosecutor General and Prosecutor will monitor the execution of the request. Operation indicated in the request shall be completed by the Investigation office and its execution will be delivered back to the PG office for transmission to the Central authority for the Convention.

Accordingly, technical assistance should be provided as followings:

- It is limited to be trained and get skilled by only one time about how to develop MLA or Asset recovery request. Accordingly, the training in different level should be conducted frequently for better skilled prosecutors. However, lack of budget for the training becomes a problem for legal organizations.
- With regard the above provisions of the Convention, Criminal procedure law of Mongolia and agreements or treaties concluded with other Governments have too general provisions that seem to be old and not satisfied to contemporary need or requirement. Therefore, almost each of law enforcement or legal organizations have their own guidance, manual and instructions. Instead, if there will be separate law about MLA and asset recovery,

implementation of the Convention would be more efficient and easier.

- Since Mongolian legal organizations have their own separate data bases which have different content. Hence, it is impossible to get unified information from those data bases about whether confiscation of property was done upon request of legal organization of foreign country, if so what about value or size of the property and whether the asset was recovered to its home country or not. So, legal organizations should have a Unified data base on the issue.
- Lack of sufficient manual related to MLA agreements or treaties which Mongolia is a Member State and official translation of legislation of foreign countries.

There is no detailed regulation on how and by what expense the confiscated or frozen property should be preserved if it is required to be stored in certain regime and condition. Then, measures for having a detail regulation on how and where to preserve confiscated and forfeited property by what expense in case of the asset requires special preserving condition and regime.

**Please provide examples of the implementation of those measures, including related court or other cases, statistics etc.**

See answer above.

## **269. Technical Assistance**

The following questions on technical assistance relate to the article under review in its entirety.

**Please outline actions required to ensure or improve the implementation of the article under review and describe any specific challenges you might be facing in this respect.**

**Do you require technical assistance for the implementation of this article? If so, please specify the forms of technical assistance that would be required. For example:**

**(IC) Facilitation of international cooperation with other countries: please describe the type of assistance**

In the recent years, trends to conceal their assets through laundering money in offshore zones have increased. In relation to this matter, an amendment was made in the Regulation on public and private interest in public office and prevention of conflict of interest law and public officials and their related persons (person with common interest) are prohibited to own bank accounts in offshore zones and are required to close such account and report about the closure to the Independent Authority Against Corruption. However, the Independent Authority Against Corruption is still facing difficulties in obtaining and inspecting bank account information, therefore, there is a further need to establish treaties on mutual legal assistance in civil, criminal and administrative matters with financial center countries such as Hong Kong SAR and Singapore.

**Is any technical assistance already being provided to you? If so, please provide a general description of the nature of the assistance, including donor information.**

## **B. Other information**

### **B. Other information**

#### **270. Other information**

Please provide any other information you believe is important for the Conference of the States Parties to the United Nations Convention against Corruption to consider at this stage regarding aspects of, or difficulties in, implementing the Convention other than those mentioned above.

**Please provide any other information you believe is important for the Conference of the States Parties to the United Nations Convention against Corruption to consider at this stage regarding aspects of or difficulties in implementing the Convention other than those mentioned above**

Following regulations are available in English at:

<https://iaac.mn/page/legislations?menu=41>

- Constitution of Mongolia
- Anti-Corruption Law of Mongolia
- Mongolian Law on Conflicts of Interests
- Mongolian National Anti-Corruption Strategy
- Acton plan for implementation the National Anti-Corruption Strategy of Mongolia
- Law on Civil Service of Mongolia
- General Administrative Law of Mongolia
- Glass account law of Mongolia
- Law on Court Administration of Mongolia
- Law on Judiciary of Mongolia
- Law of Mongolia on Procedure of Administrative Court
- Law of Mongolia on State Secrets and Official Secrets
- Elections Law of Mongolia
- Law of Polictial parties of Mongolia
- Public Procurement Law of Mongolia
- Law on Banking
- Law on Combating Money Laundering and Terrorism Financing
- Law on Concessions
- Law on Freedom of Media
- Law on Information Transparency and Right to Information
- Law on Licensing
- Law on State Supervision and Inspection
- Mongolia General Law on Taxation