



**UNODC**

United Nations Office on Drugs and Crime

## Country Review Report of Mongolia

Review by Singapore and Burkina Faso of the implementation by  
Mongolia of articles 5-14 and 51-59 of the United Nations  
Convention against Corruption for the review cycle 2016-2021

## I. Introduction

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1. The Conference of the States Parties to the United Nations Convention against Corruption was established pursuant to article 63 of the Convention to, inter alia, promote and review the implementation of the Convention.
2. In accordance with article 63, paragraph 7, of the Convention, the Conference established at its third session, held in Doha from 9 to 13 November 2009, the Mechanism for the Review of Implementation of the Convention. The Mechanism was established also pursuant to article 4, paragraph 1, of the Convention, which states that States parties shall carry out their obligations under the Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and of non-intervention in the domestic affairs of other States.
3. The Review Mechanism is an intergovernmental process whose overall goal is to assist States parties in implementing the Convention.
4. The review process is based on the terms of reference of the Review Mechanism.

## II. Process

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5. The following review of the implementation by Mongolia of the Convention is based on the completed response to the comprehensive self-assessment checklist received from Mongolia, and the supplementary information provided in accordance with paragraph 27 of the terms of reference of the Review Mechanism and the outcome of the constructive dialogue between the governmental experts from Burkina Faso, Singapore and Mongolia, by means of telephone conferences and e-mail exchanges and involving: From Burkina Faso: Ms. Céline Kone Diallo (Court of Appeal of Ouagadougou), Mr. Roland Ouedraog and Mr. Jean-Baptiste Zongo (Superior State Control and Anti-Corruption Authority); and from Singapore: Ms. Grace Lim and Mr. Kenneth Wong (Attorney-General's Chambers). The members of the Secretariat were: Mr. Badr El Banna and Mr. Ruud Niesink.
6. A country visit, agreed to by Mongolia, was conducted in Ulaanbaatar from 26 to 28 April 2022.

## III. Executive summary

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  1. ***Introduction: overview of the legal and institutional framework of Mongolia in the context of implementation of the United Nations Convention against Corruption***  
*Mongolia signed the United Nations Convention against Corruption on 29 April 2005 and ratified it on 11 January 2006.*  
*The country's implementation of chapters III and IV of the Convention was reviewed in the first year of the first review cycle, and the executive summary of that review was issued on 25 August 2011 ([CAC/COSP/IRG/I/1/1/Add.1](#)).*

*Mongolia has a civil law system. The national legal framework for preventing and countering corruption includes provisions from a number of laws, notably, the Criminal Code and the Criminal Procedure Code, the Anti-Corruption Law, the Law on Crime and Violation Prevention, the Public Procurement Law, the Law on the Regulation of Public and Private Interests and Prevention of Conflicts of Interest in the Public Service (Conflicts of Interest Law), the Civil Service Law, and the Law on Combating Money-Laundering and Terrorism Financing. Mongolia is also a party to several international agreements on international cooperation, crime control and crime prevention.*

*The country's authorities cooperate at the international level through various mechanisms and networks, including the Asia/Pacific Group on Money Laundering, the Egmont Group of Financial Intelligence Units, the Global Operational Network of Anti-Corruption Law Enforcement Authorities (GlobE Network) and the International Criminal Police Organization (INTERPOL).*

*Mongolia has several bodies and agencies concerned with preventing and combating corruption, including the Independent Authority Against Corruption (IAAC), the Civil Service Council, the Ministry of Finance, the State Procurement Agency, the Central Bank of Mongolia, the Financial Regulatory Commission and the FIU.*

## **2. Chapter II: preventive measures**

### **2.1. Observations on the implementation of the articles under review**

*Preventive anti-corruption policies and practices; preventive anti-corruption body or bodies (arts. 5 and 6)*

*The country's first national anti-corruption strategy was considered implemented in 2010. The State Great Khural (the Parliament) adopted a new national anti-corruption strategy in 2016, pursuant to article 21 of the Anti-Corruption Law. The strategy contains a section on the participation of civil society (sect. 4.1.7). Implementation of the strategy began in 2017 and led to the adoption of a final report by IAAC in 2021. The strategy is implemented by all public entities. They submit yearly implementation reports to IAAC, which reports to the Parliament (sect. 8 of the strategy). The strategy was scheduled to be evaluated in September 2022, and a new strategy was expected to be developed following that.*

*The Anti-Corruption Law established IAAC as a special independent governmental body entrusted with raising public awareness of corruption, undertaking corruption prevention activities, carrying out investigations with a view to detecting corrupt acts, and reviewing asset and income declarations (art. 15). IAAC also monitors and evaluates the implementation of the Law and informs citizens and the public about the implementation process (art. 18).*

*IAAC is legally mandated to operate independently, and it is prohibited for anyone to interfere in its operations (art. 16 of the Anti-Corruption Law). The head of IAAC is appointed for a term of six years by the Parliament, following a public hearing process and nomination by the Prime Minister. The appointment of the deputy head of IAAC follows the same procedure, except that the deputy head is nominated by the head of IAAC (art. 21 of the Law). They can be removed from office only on the limited grounds specified in article 22 of the Law. IAAC is provided with sufficient funding.*

*A public council has been established under the supervision of the President to ensure active public involvement in combating corruption and to advise on the situation regarding corruption and the implementation of the Anti-Corruption Law (art. 27 of the Law). It has not been allocated adequate resources to carry out its mandate.*

*IAAC is the authority that may assist other States parties to the Convention in developing and implementing measures for the prevention of corruption.*

*Public sector; codes of conduct for public officials; measures relating to the judiciary and prosecution services (arts. 7, 8 and 11)*

*The civil service comprises four categories, of which the public administration service and the special State service constitute the “core civil service” (arts. 6 and 10 of the Civil Service Law). The Civil Service Law specifies the general eligibility requirements for admission to the core civil service, which include having no prior convictions for offences related to corruption or abuse of power (art. 22.1).*

*Professional examinations are administered on a regular basis for the recruitment of candidates to the core civil service (art. 33 of the Civil Service Law). The written part of the exam process is fully digital. The examinations are administered by the Civil Service Council (art. 33.4, read in conjunction with art. 65.1 of the Law).*

*The Civil Service Council is the central authority tasked with providing ethical guidance to officials in managerial and executive positions, overseeing the implementation of training and addressing complaints about recruitment and selection procedures (art. 66 of the Civil Service Law). All public officials falling under the classification “public administration service” are required to follow ethics and anti-corruption training before promotion to higher positions (art. 23.2 of the Law). There are, however, no specific rules for the selection, appointment and rotation of officials in relation to positions that are vulnerable to corruption, and there is no list of such positions. IAAC examines potential candidates for managerial and executive positions at the request of the entities recruiting them.*

*The Civil Service Law contains detailed provisions on the salaries, compensation, benefits and social security benefits of civil servants. Salary levels are linked to the average living standards of the population and the average salary of positions in the private sector (arts. 57 and 58).*

*The Law on Presidential Elections, the Law on Parliamentary Elections and the Law on the Election of Citizens’ Representative Khurals (regional parliaments) describe the rights and modalities relating to both active and passive participation in elections. Aspiring candidates who have previously been convicted of corruption offences cannot be registered to run for office (art. 26.6 of the Law on Presidential Elections; art. 29.8 of the Law on Parliamentary Elections; art. 28.8 of the Law on the Election of Citizens’ Representative Khurals).*

*Political party financing in election years is regulated by the Law on Parliamentary Elections, whereas financing in other years is governed by the Law on Political Parties. All parties are required to publish information about their donations (art. 18.4 of the Law on Political Parties). For parliamentary elections, the State Audit High Authority sets the maximum amount of election expenses (art. 50 of the Law on Parliamentary Elections) and reviews and publishes election expense reports, which reflect both income and expenses (arts. 57 and 58 of the Law on Parliamentary Elections).*

*The Code of Conduct for Officials of Administrative and Support Services was adopted in 2019 (through Decree 33/2019). It lists seven key norms that officials must adhere to, including obligations to be free from influence by political parties, to serve the people wholeheartedly and to honour the reputation of the public service (art. 2.1 of the Code). Violations may result in disciplinary and “ethical” sanctions, such as a reprimand or an obligation to apologize (art. 4.2 of the Code). Violations of the Code of Conduct can be reported to IAAC, which deals with violations relating to conflicts of interest and corruption (art. 2.10 of IAAC internal decree*

*A/60). If the behaviour is suspected of reaching the level of criminality, the matter is referred to the law enforcement authorities (art. 4.4 of the Code).*

*Certain officials, such as judges, prosecutors, police officers and central and local administrative officials, are obliged to immediately report to IAAC any corruption-related information obtained while performing their official duties (art. 8 of the Anti-Corruption Law). IAAC maintains a reporting channel for the general public that can also be used by public officials and organizations. A person or entity wishing to report corruption-related information can do so anonymously.*

*Mongolia has established a financial disclosure framework, as described under the section on article 52 of the Convention, below. Officials are also obliged to declare possible conflicts of interest before taking part in any administrative decision with financial or legal implications (art. 8.1 of the Conflicts of Interest Law). IAAC screens asset and income and private interest declarations to identify possible conflicts of interests prior to a person being appointed. Public officials are prohibited from accepting gifts in the performance of their official duties (art. 16 of the Law). Furthermore, they are not allowed to concurrently hold any job or position other than those allowed by the Conflicts of Interest Law (art. 18), and they cannot engage in business activities or work in the management structure of an enterprise, except in a limited number of cases as outlined in the Conflicts of Interest Law (art. 20).*

*The independence of the judiciary is guaranteed in the Constitution (art. 49) and the Law on Courts (art. 42).*

*There is no specific code of conduct for the judiciary, but the Law on Courts contains detailed regulations on the prevention of conflicts of interest (art. 50). Non-compliance is subject to disciplinary measures (art. 57).*

*The prosecution service supervises the investigation of cases and participates in court trials on behalf of the State (art. 56 of the Constitution; art. 4.1 of the Criminal Procedure Code). The Law on Prosecutor contains provisions, including on salaries and emoluments, to guarantee the independence of prosecutors (art. 59). In 2018, the President promulgated the Code of Ethics for Prosecutors, which requires prosecutors to submit asset declarations (Paragraph 2.4.23 of Section 4 of the Article 2). Violations of the Code of Ethics are subject to disciplinary sanctions.*

#### *Public procurement and management of public finances (art. 9)*

*The Public Procurement Law applies to the procurement of all goods, works and services. Mongolia has developed an e-procurement system ([www.tender.gov.mn](http://www.tender.gov.mn)), through which any item with a value that exceeds 20 million tugriks (about 5,700 dollars) must be procured. Certain exceptions apply (art. 3 of the Law).*

*The State Procurement Agency is in charge of large-scale procurement processes and is responsible for managing the e-procurement platform. There is no threshold value for determining what constitutes large-scale procurement processes; the Government or line ministers decide which processes should be handled by the State Procurement Agency. The Ministry of Finance sets standards and deals with certain complaints regarding the legitimacy of the preparatory process prior to the opening of bids (art. 55 of the Public Procurement Law).*

*Procuring entities are required to advertise invitations to bid publicly in the mass media and in the e-procurement system (art. 21 of the Public Procurement Law). The procuring entity must award the contract to the bidder whose bid is selected as the lowest evaluated*

*substantially responsive bid and provide bid rejection justifications to the other bidders (art. 29 of the Law).*

*The Public Procurement Law also requires procuring entities to establish and publish, in advance, the conditions for participation in a bidding exercise (arts. 19 and 21).*

*The Public Procurement Law establishes a system of review and appeal. Tenderers can submit written complaints to a procuring entity. In principle, no contract can be issued while complaint proceedings are ongoing (art. 54). If a tenderer is of the opinion that violations occurred that would limit fair competition, a complaint can ultimately be filed with the Ministry of Finance (art. 55). Decisions can be appealed in administrative court (art. 56).*

*In order to ensure transparency in the procurement process, evaluation committees must consist of a minimum of two members representing the relevant sector's professional associations, the private sector or a non-government organization (art. 47.4 of the Public Procurement Law).*

*Public employees and citizens who have been appointed as a member of a bid evaluation committee are required to be specialized in public procurement (art. 47.6 of the Public Procurement Law). They are also obliged to declare, inter alia, that they do not have a conflict of interest in relation to the procurement process for which they have been appointed (art. 8 of the Law; art. 2.19 of Order 103/2021 adopted by the Minister of Finance).*

*The annual budget is adopted by the Parliament upon a proposal submitted by the Government. Direct budget governors prepare and submit quarterly budget execution reports and financial statements to higher-level budget governors. Annual budget execution reports and financial statements are submitted to the State audit bodies, and audited financial statements are submitted to higher-level budget governors each year (art. 8.9.1 of the Budget Law).*

*The State Audit Institution oversees the proper planning, allocation, use and disbursement of public finances, budgets and public property. Public officials who breach accounting legislation are held liable as provided for in the Civil Service Law unless the matter constitutes a criminal offence (art. 27 of the Law on Accounting).*

*Documents of a financial nature are treated on the basis of the regulations established in the Law on the Archiving and Administration of Business Documents, which obliges government agencies to preserve documents for a period ranging from 5 to 40 years, depending on the type of agency or institution (art. 27).*

*Public reporting; participation of society (arts. 10 and 13)*

*Mongolia enacted the new Law on Public Information Transparency in 2022. The Law applies to all organizations financed by the State and local budgets, including political parties but excluding the armed forces, border and internal troops and the intelligence authority. Organizations subject to the Law are obliged to ensure the transparency of information pertaining to their operations, their human resource management, their budget and financial management and their procurement activities (art. 8.1).*

*In cases where the right to receive information has been violated, citizens and legal entities can file a complaint with a higher-level organization or official or, if there is no such organization or official, with the court (art. 14.1.6 of the Law on Public Information Transparency).*

*Pursuant to article 15 of the General Administrative Law, persons who submit a request to an administrative organization, who are the subject of an administrative act, or who are affected*

*by the decision-making process of an administrative organization, are entitled to access information on the administrative decision-making process and to obtain copies of relevant documentation.*

*Mongolia has introduced an e-government platform, which enables citizens (currently limited to residents of Ulaanbaatar) to access over 600 government services online.*

*Pursuant to article 26 of the Anti-Corruption Law, IAAC reports annually to the Parliament on the implementation of anti-corruption legislation and on general levels of corruption in Mongolia. These reports are publicly available, and they include an overview of violations detected in public bodies and the results of surveys conducted by IAAC on, for example, the scope, forms and causes of corruption.*

*Draft laws and decisions are published online to ensure transparency and to enable the public to provide input. The National Audit Agency has established a platform called Open Audit, where anyone can obtain simplified audit reports and charts.*

*For the purposes of implementing the “Glass Account” Law, which aims to provide the public with an easy and transparent means of monitoring how and by whom public funds are spent, the Ministry of Finance operates a website with a dedicated web page for each relevant organization to maintain information on its financial activities.*

*IAAC conducts public information campaigns to raise awareness of the harmful consequences and negative effects of corruption. IAAC also works with the Ministry of Education, Culture and Science to assess the status of anti-corruption education in the curricula of various study programmes.*

*Suspected corruption offences can be reported to IAAC through various channels, including online reporting forms and a hotline. IAAC actively advertises the existence of the hotline in order to raise awareness. Nonetheless, a survey conducted in 2018 showed that the number of people who reported being aware of the IAAC reporting channels had fallen. IAAC is also mandated to take measures to support and assist anti-corruption actions, initiatives and recommendations of non-governmental organizations, communities and individuals, and to promote their participation (art. 18.1.4 of the Anti-Corruption Law). A draft law on the protection of whistle-blowers is under consideration by the Parliament.*

#### *Private sector (art. 12)*

*Private entities are obliged to follow the International Financial Reporting Standards (art. 4 of the Law on Accounting).*

*IAAC helps businesses to develop codes of conduct and training programmes. In case such codes of conduct are not complied with, IAAC can issue and follow up on recommendations (art. 6.6 of the Anti-Corruption Law). There are no specific mechanisms or procedures in place that promote cooperation between law enforcement authorities and relevant private entities, although private entities may report incidents of corruption to IAAC (art. 9.1 of the Anti-Corruption Law).*

*Pursuant to the Law on State Registration, a registry is kept that contains information on legal entities (arts. 7 and 10). This information, which does not include the identities of shareholders or ultimate beneficial owners, is published in the Registrations Portal and is available to the public.*

*Certain categories of public officials are subject to a two-year cooling off period after leaving office (art. 22 of the Conflicts of Interest Law). This restriction applies, inter alia, to officials who held a political, administrative or special office of the State, and to former managers and administrative officials of State- or locally owned legal persons (art. 3.1.4 of the Conflicts of Interest Law; art. 4 of the Anti-Corruption Law).*

*Executive managers of enterprises and organizations are responsible for managing and implementing accounting practices (art. 18 of the Law on Accounting). Chief accountants are bound by rules that prohibit the practices referred to in article 12, paragraph 3, of the Convention (art. 20 of the Law on Accounting). Violations of the Law on Accounting are subject to penalties (art. 27). Furthermore, the Law on Violation provides for fines in cases of violation of the Law on Accounting (art. 11.18 of the Law on Violation), and the Criminal Code criminalizes the falsification and forgery of evidence and financial and other documents (arts. 18.7, 21.1 and 23.2–23.4).*

*The tax deductibility of expenses that constitute bribes or other expenses in furtherance of corrupt conduct has not been explicitly disallowed.*

#### *Measures to prevent money-laundering (art. 14)*

*The country's legal regime to prevent money-laundering consists principally of the Law on Combating Money-Laundering and Terrorism Financing, in addition to relevant orders, regulations and guidelines issued by the supervisory authorities, including the preventive measures regulation on combating money-laundering and terrorist financing (issued by the Central Bank of Mongolia pursuant to article 5.14 of the Law on Combating Money-Laundering and Terrorism Financing for banks and non-bank financial institutions).*

*To comply with the anti-money-laundering requirements, all financial institutions and designated non-financial businesses and professions (reporting entities pursuant to art. 4 of the Law on Combating Money-Laundering and Terrorism Financing) must have in place internal anti-money-laundering systems that include customer and beneficial owner identification; ongoing monitoring of transactions; enhanced due diligence in relation to high-risk customers, accounts and transactions; and record-keeping and reporting of suspicious transactions (see the section on art. 52 of the Convention, below).*

*Pursuant to article 5 of the Law on Combating Money-Laundering and Terrorism Financing and article 12 of the preventive measures regulation on combating money-laundering and terrorist financing, wire transfers of funds must include the required and accurate information on the originator and the beneficiary. Effective risk-based procedures must also be applied to determine whether to execute, reject or suspend a transfer of funds where required information on the payer or the payee is missing. Intermediary financial institutions are also obliged to maintain such information throughout the payment chain.*

*Article 18.2 of the Law on Combating Money-Laundering and Terrorism Financing grants the FIU the power to examine the compliance of all reporting entities with the Law. Article 19 of the Law designates the authorities with supervisory functions related to money-laundering for each reporting entity. Those authorities include the Central Bank of Mongolia for banks, the Financial Regulatory Commission for non-bank financial institutions, and the Financial Regulatory Commission and the relevant licensing and supervisory authorities for the various designated non-financial businesses and professions, in addition to the Mongolian Bar Association, the Association of Mongolian Advocates, the Chamber of Notaries and the Institute of Certified Public Accountants.*



*Considering the overall supervision statistics on designated non-financial businesses and professions, their supervision is an area for improvement.*

*The Law on Combating Money-Laundering and Terrorism Financing establishes a range of rectification measures and sanctions for non-compliance with measures to prevent money-laundering (art. 23).*

*The FIU was established within the Central Bank of Mongolia. The Unit receives, analyses and disseminates information regarding suspicious transactions or attempted transactions that may involve money-laundering, associated offences or terrorism financing to the competent law enforcement authorities (art. 16 of the Law on Combating Money-Laundering and Terrorism Financing). The FIU joined the Egmont Group in 2009.*

*Anti-money-laundering supervisory and law enforcement authorities cooperate and exchange information at both the domestic and the international levels (art. 19.2 of the Law on Combating Money-Laundering and Terrorism Financing). Mongolia has also established the National Cooperation Council, consisting of representatives of the various competent national authorities, to organize the coordination of issues related to money-laundering and terrorism financing at the operational level (art. 22 of the Law), in addition to the National Committee, which organizes the coordination of such issues at the policy level (art. 22 (1) of the Law).*

*Mongolia has a written declaration system for cash and bearer negotiable instruments upon entry to or departure from the country, if the value of such cash or instruments is equal to or exceeds 15 million tugriks (about 4,300 dollars) or its equivalent in another currency (art. 15 of the Law on Combating Money-Laundering and Terrorism Financing). The country's legislation does not define bearer negotiable instruments.*

*The Mutual Evaluation Report published by the Asia/Pacific Group on Money Laundering in September 2017 shows that Mongolia has addressed many of the shortcomings identified in the earlier report of July 2007, including those related to preventive measures and supervision. Additional, follow-up reports show that further progress has been made to address many of the deficiencies identified in the Mutual Evaluation Report of 2017.*

*Mongolia actively contributes to the development and strengthening of regional and international cooperation in the fight against money-laundering, in particular through its participation in the Asia/Pacific Group on Money Laundering and the Egmont Group.*

## **2.2. Successes and good practices**

- *IAAC monitors and evaluates the implementation of the Anti-Corruption Law (art. 6, para. 1).*
- *There is a fully digitalized written examination process for the recruitment and selection of civil servants (art. 7, para. 1).*
- *Mongolia has established an entity (the Civil Service Council) that is responsible for providing public officials appointed to managerial and executive positions with ethical guidance (art. 7, para. 1).*
- *IAAC examines potential candidates for managerial and executive positions at the request of the entities recruiting them (art. 7, para. 1).*
- *There is an e-government platform that provides access to over 600 public services (art. 10 (b)).*

- *The country has established the “Glass Account” Law, which aims to provide the public with an easy and transparent means of monitoring how and by whom public funds are spent (art. 13, para. 1 (b)).*
- *Mongolia actively contributes to the development and strengthening of regional and international cooperation in the fight against money-laundering, in particular through its participation in the Asia/Pacific Group on Money Laundering and the Egmont Group (art. 14).*

### **2.3. Challenges in implementation**

*Mongolia is encouraged to proceed with the adoption of measures to protect reporting persons, ensuring that such measures comply with the obligations established by the Convention, and to continue raising awareness of the existence of the channels that IAAC offers to report incidents that may be considered an offence established in accordance with the Convention (art. 13, para. 2).*

*Furthermore, it is recommended that Mongolia:*

- *Identify public positions that are especially vulnerable to corruption, and ensure that adequate procedures are in place for the selection and training of individuals for such positions and the rotation, where appropriate, of such individuals to other positions (art. 7, para. 1 (b)).*
- *Develop rules or methodologies to independently determine which procurement processes should be managed by the State Procurement Agency, rather than this being determined by the Government or line ministers on a case-by-case basis (art. 9, para. 1).*
- *Consider making the e-government platform available to all citizens, including those living outside Ulaanbaatar, to the extent possible (art. 10 (b)).*
- *Consider adopting codes of conduct for members of the judiciary (art. 11, para. 1).*
- *Consider promoting cooperation between law enforcement agencies (including those specifically entrusted with preventing and combating corruption) and relevant private entities (art. 12, para. 2 (a)).*
- *Explicitly disallow the tax deductibility of bribes and other expenses incurred in furtherance of corrupt conduct (art. 12, para. 4).*
- *Endeavour to enhance measures aimed at increasing transparency relating to the identity of shareholdings and the beneficial ownership of private entities (art. 12, para. 2 (c)).*
- *Take the necessary measures to further improve the supervision of designated non-financial businesses and professions for anti-money-laundering purposes (art. 14, para. 1 (a)).*
- *Consider defining bearer negotiable instruments subject to cross-border declarations (art. 14, para. 2).*

### **2.4. Technical assistance needs identified to improve implementation of the Convention**

- *Assistance with the adoption, implementation, monitoring and evaluation of the National Anti-Corruption Programme, which is projected to be adopted in the second quarter of 2023 (art. 5, para. 1).*
- *Assistance with strengthening the anti-corruption statistical framework, in connection with measuring the achievements of and progress made by the National Anti-Corruption Programme once it has been adopted (art. 5, para. 1).*

### **3. Chapter V: asset recovery**

#### **3.1. Observations on the implementation of the articles under review**

*General provision; special cooperation; bilateral and multilateral agreements and arrangements (arts. 51, 56 and 59)*

*Mongolia has not established a comprehensive legal framework for international cooperation and asset recovery. Asset recovery is governed by the general provisions on mutual legal assistance in criminal matters of the Criminal Procedure Code (art. 42.1–42.6), in addition to relevant bilateral and multilateral treaties to which Mongolia is a party.*

*The Ministry of Justice and Home Affairs is the central authority for mutual legal assistance, including with regard to asset recovery. The Ministry forwards incoming requests for mutual legal assistance to the General Prosecutor's Office, which monitors the execution of the requests by the investigation office.*

*According to article 48.1.12 of the Law on the Prosecution Service, the General Prosecutor's Office can establish direct contact and cooperate with foreign competent authorities and other international organizations. The Office has signed 10 memorandums of understanding and established two treaties and two agreements to facilitate and secure the swift exchange of information. The Office is also the national point of contact for the Asset Recovery Inter-Agency Network for Asia and the Pacific (ARIN-AP).*

*With regard to asset recovery, Mongolia can cooperate on the basis of reciprocity and regardless of the existence of a treaty. The same set of measures and procedures that are available in domestic criminal proceedings apply in the context of international cooperation. The country implements the provisions of the Convention directly in cases where no relevant agreement applies (art. 10, para. 3, of the Constitution).*

*Mongolia has recovered assets located abroad in three cases and returned assets to one country.*

*Mongolia does not have a case management system for international cooperation and asset recovery requests that would allow comprehensive statistics on incoming and outgoing requests for international cooperation to be generated.*

*IAAC and other competent authorities such as the General Intelligence Agency, the National Police Agency, the General Prosecutor's Office, the FIU, the Financial Regulatory Commission and the Central Bank of Mongolia can exchange information internationally without prior request, and do so in practice. The FIU has signed 21 memorandums of understanding with its foreign counterparts in relation to cooperation, including the spontaneous exchange of information. The authorities also spontaneously exchange information through the Egmont Group and INTERPOL.*

*Mongolia has concluded numerous bilateral and multilateral international cooperation agreements in the areas of crime control and the tracing of criminals and proceeds of crime.*

*Prevention and detection of transfers of proceeds of crime; financial intelligence unit (arts. 52 and 58)*

*Financial institutions and designated non-financial businesses and professions are subject to money-laundering requirements, in accordance with the Law on Combating Money-Laundering and Terrorism Financing and relevant orders, regulations and guidelines issued by the supervisory authorities, including the preventive measures regulation on combating money-laundering and terrorist financing issued by the Central Bank of Mongolia.*

*These requirements cover customer due diligence measures (art. 5 of the Law on Combating Money-Laundering and Terrorism Financing), including customer identification and verification, beneficial owner identification (art. 4 (1) of the Law), ongoing monitoring of transactions, periodic and continuous updating of data, record-keeping (for a term of five years, pursuant to art. 8 of the Law), and reporting of suspicious transactions to the FIU (art. 7 of the Law). The requirements also include assessment of the risk of money-laundering and the taking of appropriate measures to manage that risk (art. 5.3 of the Law), and the application of enhanced due diligence in relation to high-risk customers, accounts and transactions, including the accounts of domestic and foreign politically exposed persons (art. 6 of the Law). The preventive measures regulation on combating money-laundering and terrorist financing extends the application of enhanced due diligence to the family members and close associates of politically exposed persons (art. 6.3 of the regulation).*

*The preventive measures regulation on combating money-laundering and terrorist financing provides detailed instructions on persons, accounts and transactions that must be given particular attention (art. 2). The Central Bank of Mongolia has also issued a guidance note on risk-based management in relation to money-laundering and terrorism financing, dated 6 February 2018.*

*The procedures for the establishment of banks (art. 20.1.6 of the Banking Law) prohibit the establishment of shell banks. The Law on Combating Money-Laundering and Terrorism Financing prohibits banks from having correspondent relationships with shell banks or with banks that provides correspondent services to shell banks (art. 5.7). According to article 3.1.7 of the Law, a “shell bank” means a bank whose management and operations have no physical presence in the country in which it is registered and licensed, and which is unaffiliated with a regulated financial group that is subject to effective consolidated supervision.*

*Mongolia has established a comprehensive financial disclosure framework.*

*Articles 10 to 14 of the Anti-Corruption Law require a range of public officials, in addition to candidates for the presidency, the Parliament and citizens’ representative khurals, to declare their income, assets and liabilities, and those of their family members. The declarations cover assets, including financial accounts, held domestically or abroad, and should be submitted annually (by 15 February) and within 30 days of the date of employment, but not at the end of service. A declaration should also be submitted whenever there is a substantial change to declared income and assets.*

*IAAC is the main body in charge of receiving and verifying asset and income declarations. Depending on the person subject to the declaration, one of three other bodies may be responsible for receiving asset and income declarations, namely, the Legal Standing Committee of the State Great Khural for the declarations of senior and executive officials of IAAC, the General Council of Courts for the declarations of members of the Constitutional Court and of all judges, and the General Election Commission for the declarations of electoral candidates.*

*The electronic submission of declarations through the IAAC website began in 2011 and became mandatory in 2018. The system automatically assesses the potential risks on the basis of stored data and raises red flags depending on certain predefined criteria. In 2019, IAAC launched a pilot system for the electronic submission of preliminary declarations by candidates for public positions.*

*The declarations of high-ranking officials of the state and positions identical to it are published on the IAAC website and in the Government news magazine (art. 14.1); the declarations of all other declarants are made available to the public (art. 14.2).*

*The Anti-Corruption Law sets out disciplinary penalties ranging from reprimand to dismissal from office if a declaration is not submitted or incorrect data are submitted (arts. 13.8 and 13.9). Sanctions have been imposed for non-compliance with the declaration requirements. IAAC conducts investigations into red-flagged declarations and will refer the matter to the General Prosecutor's Office to open a criminal investigation if there is sufficient evidence that a crime (e.g. illicit enrichment) has been committed.*

*The law does not preclude the possibility of sharing relevant information with foreign competent authorities.*

*Although article 10 of the Conflicts of Interest Law prohibits public officials and persons related to them (parents, siblings, other family members, cohabitant, spouse's parents and siblings, partner and other related parties) from opening bank accounts in their names in determined offshore jurisdictions, Mongolia has not adopted measures requiring public officials having a signature or other authority over a foreign financial account to report that relationship to appropriate authorities and to maintain appropriate records related thereto.*

*The FIU is an autonomous and independent agency (art. 16 of the Law on Combating Money-Laundering and Terrorism Financing). The Unit receives suspicious transaction reports, cash transaction reports and customs declarations and has broad access to information sources in order to develop financial intelligence. The Unit seems to have adequate human, financial and technical resources to properly conduct its work. It uses the United Nations Office on Drugs and Crime goAML software application, which was due to be fully implemented by the end of July 2022.*

*Measures for direct recovery of property; mechanisms for recovery of property through international cooperation in confiscation; international cooperation for purposes of confiscation (arts. 53, 54 and 55)*

*The Civil Code establishes the right of a person, whether legal or natural, domestic or foreign, to initiate an action to establish ownership of property (art. 106.1) or claim compensation for damages (art. 497.1) in the courts of Mongolia. This could be done either by instituting civil proceedings or by participating in criminal proceedings (arts. 42, 43, 115–123 and 291–293 of the Criminal Code; arts. 8.2 and 8.5 of the Criminal Procedure Code).*

*These provisions also apply to foreign States on the basis of the principle of direct implementation of international conventions (art. 10, para. 3, of the Constitution) and on the basis of article 2.2 of the Civil Code, which establishes that "if the international treaty stipulates otherwise, the international treaty shall be observed".*

*Article 7.5 of the Criminal Code, on the confiscation of assets and income, establishes that income and assets gained through the commission of a crime should be allocated to damage compensation and criminal proceeding expenses, and any leftover amount should be paid into*

*the State budget. This provision allows the courts of Mongolia to recognize another State party's claim as a legitimate owner of property when having to decide on confiscation.*

*The country's legislation does not provide for the enforcement of foreign confiscation orders. The competent national authorities may, however, issue a domestic confiscation order pursuant to a foreign request on the basis of the general provisions of the Criminal Code (art. 7.5) and the Criminal Procedure Code (art. 42.4) that regulate confiscation and mutual legal assistance.*

*Mongolian legislation provides only for conviction-based confiscation (arts. 7.2 and 7.6.6 of the Criminal Code).*

*The courts of Mongolia can order the confiscation of property of foreign origin by adjudication of an offence of money-laundering if the crime that was committed in the foreign country was punishable by a term of imprisonment of at least one year according to the foreign country's law (art. 7.5 (2) of the Criminal Code).*

*The country's legislation does not provide for the possibility of freezing or seizing property upon a foreign freezing or seizure order. The criminal investigative authorities or courts of Mongolia can, however, issue a domestic decision to freeze or seize property upon a foreign request (art. 42.4 of the Criminal Procedure Code).*

*The country's legislation does not explicitly allow competent authorities to preserve property for confiscation in the absence of a foreign request, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property.*

*Article 42.2 of the Criminal Procedure Code sets out the information to be included in requests for mutual legal assistance sent to Mongolia.*

*The Criminal Procedure Code does not provide for the possibility of refusing a request if the property is of a de minimis value. In practice, and before refusing a request or lifting provisional measures, the requesting State may be invited to provide additional documents or information.*

*In the course of the review, Mongolia provided copies of its laws and regulations that implement article 55 of the Convention. The country does not make the measures referred to in paragraphs 1 (a) and 2 of that article conditional on the existence of a relevant treaty.*

*In addition to establishing grounds for third persons to participate as civil plaintiffs in criminal proceedings, the Criminal Code includes a provision to preserve the rights of bona fide third parties in cases of confiscation that could extend to confiscation pursuant to a foreign request (art. 7.5 (5)).*

#### *Return and disposal of assets (art. 57)*

*The legislation of Mongolia does not address the issue of the return of assets.*

*The general principle under the country's legislation is that confiscated assets should be used to compensate damage caused to others and to cover the cost of investigation. If the value of confiscated assets exceeds the cost of compensation for damage, it should be transferred to the State budget (art. 7.5 (3) of the Criminal Code). The country's legislation also provides for the preservation of the rights of bona fide third parties in cases of confiscation (art. 7.5 (5) of the Criminal Code).*

*The legislation of Mongolia provides for the possibility to deduct the expenses incurred in investigations, prosecutions or judicial proceedings (art. 1.4 of the Criminal Procedure Code; art. 7.5 (3) of the Criminal Code).*

*Mongolia can, when necessary, conclude agreements or arrangements on a case-by-case basis for the final disposal of confiscated property, although it has not done so to date.*

### **3.2. Successes and good practices**

- *Mongolia is a member of the Asset Recovery Inter-Agency Network for Asia and the Pacific (ARIN-AP) and participates regularly in its activities to promote international cooperation on asset recovery (art. 59).*

### **3.3. Challenges in implementation**

*Mongolia is encouraged to develop a case management system for international cooperation and asset recovery requests (art. 51).*

*Furthermore, it is recommended that Mongolia:*

- *Establish a comprehensive legal framework for international cooperation and asset recovery (art. 51).*
- *Consider reviewing its financial disclosure framework to also require appropriate public officials to declare their assets and liabilities at the end of service (art. 52, para. 5).*
- *Consider adopting measures requiring public officials having a signature or other authority over a foreign financial account to report that relationship to appropriate authorities and to maintain appropriate records related thereto (art. 52, para. 6).*
- *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 in relation to offences established under the Convention (art. 54, para. 1 (a)).*
- *Consider taking measures to allow confiscation 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 (art. 54, para. 1 (c)).*
- *Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a foreign freezing or seizure order that provides a reasonable basis to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation (art. 54, para. 2 (a)).*
- *Consider taking 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 (art. 54, para. 2 (c)).*
- *Expressly provide for a mechanism for the return and disposal of assets in accordance with the provisions of article 57, paragraphs 1 and 3, of the Convention.*

### **3.4. Technical assistance needs identified to improve implementation of the Convention**

- *Assistance with strengthening the legal framework for international cooperation and asset recovery.*
- *Assistance with building a comprehensive legal framework for the management of returned stolen assets.*

## IV. Implementation of the Convention

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### A. Ratification of the Convention

Mongolia signed UNCAC on April 29, 2005, and ratified it on October 27, 2005, by the Law on Ratifying the United Nations Convention Against Corruption.<sup>1</sup> Mongolia deposited its instrument of ratification on January 11, 2006.

Article 10, paragraph 3 of the Constitution of Mongolia<sup>2</sup> stipulates, “[t]he 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 to become effective in the territory of Mongolia as domestic legislation have been laid down by the Parliament of Mongolia with the adoption of a law on its ratification in line with article 16 of the Law of Mongolia on International Treaties.<sup>3</sup>

### B. Legal system of Mongolia

Mongolian legal system established on the basis of the 1992 Constitution is a civil law system primarily based on the continental or Romano-Germanic legal system. However, it retains some specific aspects of the Soviet legal system. The Civil Code of Mongolia itself is ostensibly modeled on the major continental European codifications, particularly the German Civil Code.

However, some elements of Anglo-Saxon legal tradition, such as the adversarial process, were introduced into the court proceedings during the legal reform of 2002 by the adoption of relevant civil and criminal procedural laws as an example of the shift of the legal system to the hybrid one 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 argue it should be regarded as a specialized 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.

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<sup>1</sup> Available at: <https://legalinfo.mn/mn/detail/10269>

<sup>2</sup> Available at: <https://legalinfo.mn/mn/detail/367>

<sup>3</sup> Available at: <https://legalinfo.mn/mn/detail?lawId=12340>



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 primary sources of law in Mongolia are: (i) the Constitution; (ii) international treaties; (iii) acts of Parliament (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 parliamentary acts - statutes.

The other types of legislative acts include bylaws, decrees, rules, and other normative legal acts passed by public authorities, including by the Parliament, Government, President, municipalities, ministries, agencies and other authorized public entities.

As the Constitution of Mongolia is a fundamental law of Mongolia, it has established the basis of the structure of the state, the form of government and the political system. The Constitution of Mongolia stipulates the grounds for the selection and appointments, mandates, responsibilities, and principles of activities of the State Great Khural (the Parliament), and President, the Government, and judicial bodies of Mongolia, based on the principles of equitable distribution of State power, and mutual supervision. The Constitution also establishes the primary laws on the functioning of the state (Law on the State Great Khural, Law on the President, Law on the Government, Law on Court, Law on Prosecutor, Law on Legal Status of Ministry, Law on Legal Status of Government Agency, and criminal, civil, and administrative procedure laws) and the basic principles for the affairs of state and civil society-to-state relations, and legal guarantees of human rights and freedoms. As a result, the power of the State has been separated and divided into three independent branches, which are legislative, executive, and judicial.

In Mongolia, the term ‘legal acts,’ in its broadest sense, takes multiple forms, which include acts (laws) and resolutions of Parliament, presidential decrees, Government resolutions, and ministerial or agency decrees and orders. Typically, government ministries and agencies have the power to issue (adopt) normative legal acts according to an authority delegated from the Parliament and/or the Government by a specific act of Parliament. The acts of ministries and other government agencies of Mongolia are commonly called ‘rules’ or ‘procedures.’

Regarding the place of international treaties in the hierarchy of legal norms in Mongolia, as stated in Article 10(3) of the Constitution of Mongolia, the international treaties to which Mongolia is a party shall become effective as domestic legislation upon entry into force of the laws on their ratification or accession. Furthermore, Article 10(4) of the Constitution stipulates Mongolia shall not abide by international treaties incompatible with its Constitution. Therefore, the Constitution precedes international treaties.

When it comes to the correlation between international treaties and parliamentary laws, in most cases, international treaties override the acts of Parliament (statutes). For instance, paragraph 2.2 of article 2 of the Anti-Corruption Law stipulates, “If an international treaty to which Mongolia is a party stipulates otherwise than the anti-corruption legislation, the provisions of the international treaty shall prevail.” Thus, international treaties will prevail in most cases if the treaty in question is ratified by the Parliament.

In other words, the court has legal grounds to issue a decision based on UNCAC in addition to domestic legislation, provided that the instrument of ratification or accession in question is in force at the moment of the court decision. The above rule is derived from Articles 10(3) of the

Constitution and Article 33 of the Law on International Treaties, which stipulates that the courts shall apply the officially published international treaties of Mongolia in accordance with the procedures specified in the relevant laws. It also states that, if necessary, the Supreme Court shall issue an official explanation on the correct application of international treaties of Mongolia. The Court has the possibility to proceed under an international treaty or multilateral agreement, or proceed under the directive of diplomatic relationship while executing foreign court decisions related to asset recovery, sending domestic court decisions to a foreign country, and other performing other actions concerning criminal and civil proceedings. The principle of reciprocity can be applicable, although there has been no real case example.

The Constitution of Mongolia stipulates Mongolia is a unitary State by its State structure.

Moreover, Article 1.2(1) of the Criminal Procedure Code stipulates, "Regardless of where a crime is committed, criminal proceedings on the territory of Mongolia shall be, in all circumstances, executed in conformity with this law."

According to the notification officially submitted to the UN Secretary-General, the Ministry of Justice is the central authority for implementing UNCAC, particularly its provisions on mutual legal assistance, transfer of offenders, seizure, confiscation and return of assets. Requests should be sent through diplomatic channels, the Ministry of Foreign Affairs. In case of foreign requests, the Ministry of Justice sends the requests to the State General Prosecutor's Office. According to article 26 of the Law on Prosecutor, the central office of the prosecution service organizes the execution of the request by the criminal investigation bodies. Executed requests are delivered to the Prosecutor General of State and the Ministry of Justice by the relevant Prosecutor.

The Methodological Guidelines for Supervising Criminal Investigation in Compliance with the Criminal Procedure Code, adopted by the Prosecutor General's Decree No A/88, dated August 11, 2015, contained a separate section that regulates issues concerning rendering legal assistance in criminal matters. In addition, "Guidance on Rendering Mutual Legal Assistance on Criminal Matters and Method for Extradition of Convicted Persons and Perpetrators" and "Form for Mutual Legal Request on Criminal Matters and Extradition Requests for Perpetrators and Convicted Persons" were adopted respectively by 1st and 2nd appendices of the Decree No A/65 of 18<sup>th</sup> May 2021 issued by the Prosecutor General of the State.

When executing a foreign court order relating to asset recovery or sending domestic requests and court orders for execution in foreign countries, or conducting criminal and civil proceedings in the courts, procedures established in the applicable bilateral mutual legal assistance agreements, as well as multilateral treaties to which Mongolia is a party, are applicable. When no such agreement or treaty exists, assistance can be sought and rendered based on the principle of reciprocity through diplomatic channels in accordance with Article 26(2) of the Law on Prosecutor.

Mongolia had followed the inquisitorial process in criminal proceedings in the past. Currently, it is much more influenced by the adversarial process, and criminal proceedings can be characterized as having a mixture of both systems. Article 1.7(3) of the Criminal Procedure Code stipulates that the court shall determine the facts of the case based on the adversarial principle.

The following regulations are available in English at: <https://en.iaac.mn/legislations>

- Constitution of Mongolia
- Anti-Corruption Law

- Law on Conflicts of Interests
- National Anti-Corruption Strategy
- Action Plan for Implementation of the National Anti-Corruption Strategy of Mongolia
- Law on Civil Service
- General Administrative Law
- Law on Glass Accounts
- Law on Court Administration
- Law on the Judiciary of Mongolia
- Law on Procedure of Administrative Court
- Law on State and Official Secrets
- Law on Presidential Elections
- Law on Parliamentary Elections
- Law on the Election of Citizens' Representative Khurals
- Law on Political Parties
- Law on Public Procurement
- Law on Banking
- Law on Combating Money Laundering and Terrorism Financing
- Law on Concessions
- Law on Freedom of Media
- Law on Transparency of Public Information
- Law on Licensing
- Law on State Supervision and Inspection
- General Law on Taxation

Mongolia has attached great importance to the implementation of UNCAC. It has been involved in a number of international and domestic assessments of the implementation of the Convention since it ratified UNCAC. Mongolia was one of the first States parties to UNCAC, and its implementation of the Convention was reviewed in the first cycle of the review mechanism:

**2009:** Mongolia was one of 29 countries participating in UNCAC's initial pilot review programme. The pilot review was conducted through a peer review process, and Sweden and Pakistan reviewed Mongolia.

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

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

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

**2014:** Istanbul Anti-Corruption Action Plan reviewed 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 for Mongolia's plan to conduct the UNCAC self-assessment in 2016, teams of local experts were selected to provide an independent preliminary assessment of the

implementation of Chapters II and V of the Convention. 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 Great 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 that the Asia Foundation conducts in collaboration with the Sant Maral Foundation (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 19<sup>th</sup> Survey on Perceptions and Knowledge of Corruption (SPEAK) in Mongolia, a nationwide survey of 1360 citizens in rural soums, aimags, and the capital city - 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 Mongolia’s anti-corruption activities and reforms. The 4<sup>th</sup> round of Monitoring was conducted within the framework of the Istanbul action plan:

<https://www.oecd.org/corruption/acn/OECD-ACN-Mongolia-4th-Round-Monitoring-Report-2019-ENG.pdf>

Mongolia is paying great attention to the self-assessment of the implementation of Chapters II and V of UNCAC. Notably, under the UNDP's "Support to Participatory Legislative Process" project, two teams of independent expert groups selected by the IAAC conducted an external review and prepared the draft report.

The experts who assessed Chapter II of UNCAC highlighted the following three practices as a success:

- **Anti-Corruption Plans and their evaluation:** All public organizations and enterprises must develop and implement annual anti-corruption plans. Then, at the end of each year, the implementation of the plans was assessed by the IAAC, and consequently, the public bodies were ranked according to their evaluation results. The IAAC organized a public event to mark the achievements of the leading public organization and enterprises. However, the ranking stopped in 2016, but public organizations are still required to adopt and implement an anti-corruption plan annually.
- **The establishment of an anti-corruption body and corruption prevention unit in its structure:** Following the adoption of the Anti-Corruption Law in 2006, the IAAC was established in 2007. The Authority coordinates and organizes prevention activities nationwide, among other statutory mandates. The experts recognized the establishment of the anti-corruption agency was a success.
- **Adoption of the Conflicts of Interest Law and Law on Glass Accounts.** The Conflicts of Interest Law and the Law on Glass Account were adopted in 2012 and 2014, respectively. The Law on Conflict of Interest aims at ensuring transparency and credibility of the civil service by way of strengthening the alignment of public service activities with public interest through the prevention and resolution of conflicts between private interests and official duties of a public official. The Law on Glass Accounts aims to create a transparent

system ("glass accounts") to enable public monitoring and [further] disclosure to the public regarding decision-making processes and activities [carried out] concerning implementing budget management for the purpose of efficiently allocating/spending state and local administration budgets. The experts agreed that the adoption of both statutes was a success. All these highlights were reflected in the report.

The experts who assessed the implementation of Chapter V of UNCAC highlighted the following practices were a success:

- Mongolia established an independent body to combat corruption since the ratification of UNCAC in 2006, and many initiatives on institutions and legislation were executed relating to implementing this convention.
- As specified in Chapter 22 of the revised Criminal Code, which entered into force on September 1, 2016, all corruption offences were criminalized in compliance with the Convention. This law stipulates that corruption offences that required material damages under the previous Criminal Code, such as “abuse of functions” and “trading in influence,” now do not require such damages. Their definitions have been revised to ensure compliance with the Convention. In addition, in line with UNCAC, new offences, such as “bribery of foreign public officials and officials of international organizations,” were criminalized. According to the new law, an offence of “complicity in bribery” is no longer an independent offence.

However, legislation to implement the requirements of Chapter V of UNCAC and its enforcement lacked clarity, and its general concept was inadequate. Therefore, Mongolia has initiated several new programs, initiatives, and measures to improve the said charter’s implementation.

- IAAC, together with the StAR Initiative, carried out the “Capacity Building for Detection and Return of Stolen Assets” initiative between May 2013 and November 2015. This program started a comprehensive development of stolen asset recovery capacity building, improvements in the organization and the legal framework.
- A guidance manual, “Mutual legal assistance of criminal procedure,” was developed with the assistance of the StAR Initiative in 2015. This manual includes comments and advice on developing appropriate and correct official requests for mutual legal assistance for domestic investigators and prosecutors. Also, a typical template of an MLA request for receiving legal assistance from foreign countries as well as general requirements for such requests, have been laid down in the manual.
- Financial Intelligence Unit became a member of the Egmont Group in 2009.

Moreover, an ad hoc working group comprising governmental and non-governmental organizations was also appointed to conduct the self-assessment. The IAAC organized a series of training activities among members of the ad hoc working group and other stakeholders on conducting 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 drafts of proposals to the IAAC. Also, the experts organized three workshops and five interviews with relevant parties.

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

The implementation of Chapters II and V of UNCAC was assessed separately by two law firms, and both reports were finalized in 2016. The report on Chapter II of UNCAC used the following sources:

- National system of legal acts: [www.legalinfo.mn](http://www.legalinfo.mn)
- Official websites of government and non-government organizations.
- Studies: Nationwide survey on Report on Mongolian Business Environment (2014) by AmCham; Consultant Report on Progress of Implementation of Chapter II of UNCAC (2014) funded by UNDP; Survey on Perceptions and Knowledge of Corruption (2015) commissioned by the Asia Foundation; Anti-Corruption Reforms in Mongolia (2015) by OECD.
- Written reports on the implementation of Chapter II of UNCAC prepared by government and non-government organizations, including: IAAC, Central Bank of Mongolia, General Prosecutor’s Office, Financial Regulatory Committee, Ministry of Justice, General Election Committee, National Human Rights Commission, Civil Service Council, Information Technology, Post and Telecommunication Agency, Ministry of Education, Culture and Science, Ministry of Finance, Ministry of Foreign Affairs, Cabinet Secretariat of the Government, Public Procurement Agency, Mongolian National Chamber of Commerce and Industry, Mongolian Journalists’ Union, Mongolian Employers’ Federation, Transparency Support Partnership NGO, Public Council of the Independent Authority Against Corruption.

The following information sources were used in preparing responses concerning the implementation of Chapter V of UNCAC:

- National online database of legal acts: [www.legalinfo.mn](http://www.legalinfo.mn)
- Official websites of government and non-government organizations (please see the list of consulted organizations in the section “General information”).

Information on measures undertaken by respective organizations to implement Chapter V of UNCAC was collected and used as a source for responses to the self-assessment checklist.

No	Meeting type	Participants	Number
1	Consultative meetings	Independent Authority Against Corruption (IAAC) The State Prosecutor General’s Office The Central Bank of Mongolia The Financial intelligence unit /FIU/ National Human Rights Commission The Financial Regulatory Commission	2
2	Focus interviews	The State Prosecutor General’s Office Financial intelligence unit /FIU/ Director of Compliance Division, Khan bank Director of Internal Audit Division, Golomt bank	3
3	Individual interviews	The State Prosecutor General’s Office Financial intelligence unit	2



## C. Implementation of selected articles

### II. Preventive measures

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

##### *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.*

##### *(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Mongolia adopted its first anti-corruption law in 1996. The law was revised due to the need to improve the anti-corruption framework further and implement the requirements of the UN Convention against Corruption (UNCAC or Convention). The revised and currently in force Anti-Corruption Law was adopted by the Parliament of Mongolia on July 6, 2006, and entered into force on November 1, 2006. The law ensures the development and implementation of effective and harmonious anti-corruption policy in accordance with the fundamental principles of the national legal system.

The State Great Khural (the Parliament) of Mongolia adopted Mongolia's first overarching anti-corruption strategy – the National Anti-Corruption Strategy in 2002, which was implemented in two phases. Its period of implementation was completed in 2010.

In addition, the following policies and strategies at the national level also contain anti-corruption strategies and stress the importance of preventing corruption:

- Provision 3.3.2.2 of the "National Security Concept of Mongolia," approved by the Resolution No. 48 of the Parliament in 2010, stipulates that the promotion of government transparency and accountability and expansion of anti-corruption efforts at the national and local levels and ensuring participation of political parties and civil society in these efforts, intensification of corruption prevention and advocacy efforts, and nurturing a sense of intolerance towards corruption is on the components in ensuring the national security.<sup>4</sup>
- One of the priority objectives of the Millennium Development Goal-Based Comprehensive National Development Strategy, adopted by the Parliament by its Resolution No. 12 in 2008, was to "improve the political democratic system, create a transparent and accountable system that is free from corruption and bureaucracy (3.5)". Ineffective enforcement of laws, lack of accountability, lack of fair elections, and expansion of corruption were identified as the long-

<sup>4</sup> Available at: <https://legalinfo.mn/mn/detail/6163> (MN); <https://mfa.gov.mn/en/documentation/55280/> (EN)

term development risks for Mongolia (8.2.4).

Following the end of the implementation period of the 2002 National Anti-Corruption Strategy in 2010, competent authorities initiated consultations and drafting of the next comprehensive anti-corruption strategy that took into consideration, among others, the above two policy documents.

At the time of drafting the new anti-corruption strategy, there were views that the Anti-Corruption Law did not define national anti-corruption policy and that it primarily regulated and provided anti-corruption monitoring mechanisms and jurisdictions to investigate corruption offences and the independence of the Independent Authority Against Corruption (IAAC), its mandate and functions, legal, economic, and social guarantees of its staff.

In 2013, at the initiative of the President of Mongolia, the IAAC developed the concept and initial draft of the National Anti-Corruption Strategy. The efforts were supported jointly by the Asia Foundation and Mercy Corps Mongolia and undertaken in the course of the "Project on Supporting Governance and Transparency in Mongolia." The drafters organized 74 national consultations, which gathered 3160 people to discuss the draft strategy between November and December 2013.

Public consultations on the draft continued throughout 2014 and 2016, involving representatives of civil society organizations.

In 2014, to create a legal basis for adopting the strategy, Article 21 was added to the Anti-Corruption Law, stating, "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 incorporated a general obligation for 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, which was developed and adopted at the time of developing the new strategy, defined anti-corruption measures.<sup>5</sup>

In 2016, the State Great Khural, by its Resolution No. 51 on November 3, 2016, adopted the strategy - National Anti-Corruption Strategy.<sup>6</sup> The primary 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." It contains 11 definite objectives and 83 activities to be implemented between 2016-2023 over two phases (2016-2019 and 2020-2023).

In 2017, the Government of Mongolia adopted the Action Plan for the Implementation of the National Anti-Corruption Strategy (Action Plan) and planned to implement 216 specific measures with a total budget of MNT 24962.4 million from the State budget.

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 to achieve the goal of the Strategy:

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<sup>5</sup> Available at: [https://www.un-page.org/files/public/20160205\\_mongolia\\_sdv\\_2030.pdf](https://www.un-page.org/files/public/20160205_mongolia_sdv_2030.pdf) (EN)

<sup>6</sup> Available at: <https://legalinfo.mn/mn/detail?lawId=207496&showType=1>



- prevent the risk of corruption through strengthening fair, accountable and transparent public service and implement a merit principle based on knowledge, education and independent from political influence when making the selection and appointment of public servants;
- ensure the openness of public service, develop electronic services that respect customers' interest and upholds their satisfaction, improve quality and efficiency of public service, and strengthen public servants' accountability;
- improve independent supervision of budget, finance and auditing institution, ensure transparency, and execute programs, projects and measures in an efficient and economical manner;
- enhance the legal framework of the public procurement process to increase its efficiency, fairness, accessibility and transparency, and improve monitoring and accountability of the procurement process;
- strengthen integrity, transparency and independence of the judiciary and law enforcement authorities, and improve cooperation between these organizations in combating corruption;
- strengthen cooperation between the public and the private sectors in preventing corruption;
- improve the scrutiny of the citizens and the public in corruption prevention activities, increase participation and roles of civil society organizations, and support their initiatives;
- enforce implementation of legislation that ensures citizens' right to obtain information, improve the legal framework of the media, professional ethics and accountability of journalists;
- enable public access to financing of political parties and elections, ensure the government, the judiciary and the parliament be free from illegal interests and influences of the political and business groups;
- engrain the ideology of fairness, organize public awareness activities against corruption in stages, and enhance education on corruption;
- promote international cooperation concerning combatting and preventing corruption and receive and implement the recommendations and guidance of international organizations.

In order to effectively implement the Strategy, a separate unit, Office for Implementing the National Anti-Corruption Strategy (Office), was established. Members of the Office comprised three staff (head and 2 senior officers) appointed from within the IAAC. From 19 July 2017 to 2019, the Office functioned within the structure of IAAC as a standalone unit. In July 2019, reorganization took place - the Prevention and Public Awareness Department of IAAC was tasked to carry out the functions of the Office. Thus, the Office became part of the Prevention and Public Awareness Department. With this structure, the IAAC enhanced its capacities to coordinate 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 to implement the Action Plan of the Strategy and the Anti-Corruption Law and place their plans and implementation reports on the organizations' 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 was completed in 2019. IAAC issues directives to the implementing agencies urging them to work effectively and efficiently to implement each of the activities outlined in the plan. It also actively cooperates with civil society, the private sector and the media.

According to paragraph 4.1.5.7 of the Action Plan ("Create and develop a database of the National Anti-Corruption Strategy"), database software was developed and started functioning.

The software is not limited to merely receiving implementation reports. Still, it also conducts monitoring and analysis of the reports submitted by the organizations, as well as enables the organizations to conduct their self-assessment on their progress and implementation results and the IAAC to assess the reports as well. With the software, it is possible to incorporate and update all the measures taken by agencies responsible for implementing the Strategy and upload any necessary documentation, information and research results.

A workshop introducing the electronic database and software for the strategy was organized in 2019 for the relevant management and specialists. Paper-based implementation reports have been entirely abolished, and the implementing agencies provide and regularly update their information electronically.

Based on Article 8.2 of the National Anti-Corruption Strategy, to increase effectiveness and improve implementation and accountability, IAAC assessed the implementation of the 202 measures 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, and 178 measures were implemented partially; thus, the implementation percentage was estimated at 35.34 percent.

As of December 2021, the implementation rate stands at 75 %, which is expected to rise by the end of 2022, the end of the implementation period of the strategy.<sup>7</sup>

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

- Revised Civil Service Law

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

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<sup>7</sup> During the country visit, authorities informed that the work on the next strategy had already begun, and it was expected to be introduced to the parliament in 2023.

According to and for the full implementation of 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; to only adopt a merit-based selection process when appointing a person who best meets the 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 a decision, based on a notification issued by the Civil Service Council, it shall cancel the decision within 14 working days. Moreover, Article 32.6 states, "In case a political appointee violated Articles 31.2 and 32.2 of this Law, it shall become the basis for resigning him/her".

Under the law, the Civil Service Council shall deliver its annual operational report ("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, verdict on compliance and irregularities of civil servants' code of conduct, and proposal on follow-up actions. The Standing Committee on State Structure of the State Great Khural shall discuss the report during its meeting and make a verdict accordingly. The verdict shall be published in the "State Gazette" journal.

- In accordance with the law, the "Ethical Rule of Public Administration Positions and Public Support Service Positions" was approved by Government Resolution No. 33 in 2019.<sup>8</sup>
- Decree No. 12 of the President of Mongolia of 2018 approved the "Prosecutor's Disciplinary Rules," and Decree No. 13 of 2018 approved the revised "Rules for Selection of Judge" for the fourth time.
- A proposal was submitted to the National Security Council on "Strengthening fight against illicit enrichment, money laundering and abuse of power offences" and is currently being implemented.
- Measures are taken to provide public services electronically 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"). Government Resolution No. 259 approved the 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" was formed by the Head of the Communications and Information Technology Authority to provide digital signatures to

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<sup>8</sup> Available at: <https://legalinfo.mn/mn/detail/14044/2/209237>

State/government agencies based on a contract. Government Certificate Authority started providing digital signatures to public agencies.

- In 2017, the Government adopted Resolution No. 111, “General Rules on Electronic Document Management,” and Resolution No. 4, “National Program on Introducing Information Technology in the State Archives and Document Management.”
- The Parliament approved 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 on June 21, 2018, and entered into force on November 1, 2018.

The State Registration Law determines types of registration services, ensures rightness of records, paves the way to provide state service promptly, and sets the principles and types of state registration practice, data base, system of state registration institution, its responsibilities, mandates as well as regulation on common relations pertinent to keeping state registration.

The Law on Civil Registration of the State regulates all types of state registration related to an individual, such as birth, marital, divorce, adoption records etc. On the other hand, the Law on State Registration of Legal Entities deals with all types of state registrations pertinent to legal entities, such as incorporation, liquidation etc. The Law on State Registration of Property Rights tackles state registrations relating to immovable assets and properties and their entitlements.

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 with 81 types of registration and provides 48 types of reference information to the citizens. Seventy 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 No. 159 of 2017. Based on this rule and the “Policy Directive on State information exchange system” approved by the Head of the Communications and Information Technology Authority, the HUR system for State information exchange was developed and started functioning in January 2018. Since then, 78 web services were developed for the HUR system, was connected to 66 State/government bodies and responded to 8 million requests for information exchange. The introduction of the system enabled fast information exchange 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 are 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 No. 30 of 2018 were approved respectively.

- The Government established a central information database of criminal cases and violations for the use of relevant agencies, such as courts, prosecutor's offices, police agencies and executive agencies of court decisions. On March 25, 2017, the 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 which approved the list of information to be maintained in the database. Since March 2017, information and cases have been electronically delivered between the agencies.
- The Prime Minister's Decree No. 170 on the "Information and Communications Policy Council" ("Council") was issued in 2017. The Council's primary goal is to support the development of e-governance, implementation and management of the information and communications sector, to improve coordination of governmental organizations, and to provide integrated policy, planning and guidance.
- In 2018, an investigation was conducted into 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 the result of the investigation was introduced to the Cabinet Meeting and the public.
- Law on Ensuring the Stability of Banking Sector was passed on 22 June 2018. The law regulated the banks to issue shares and securities to increase their capital. This law enables banks to raise or expand their funding sources independently from their resources, reputation, and capacity.
- 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, the Parliament approved several important amendments to define the scope of the law, eliminating corruption causes and improving the legal framework.
- The Cabinet Secretariat drafted and submitted the Law on Licensing to the Parliament. The draft law aimed drastically decrease permits issued by public agencies and provide public services quickly and efficiently.
- Corruption risk assessment methodology was approved by the Head of the IAAC. Public bodies are engaged in corruption risk assessment and consumer assessment by civil society organizations.

The methodology was developed with the public sector in mind. The assessment was launched in 2018. Upon its launch, 24 ministries and agencies were assessed. The assessment continued into 2019 and 2020, covering 15 and 10 public institutions and enterprises, respectively. The assessment is commissioned by private contractors and financed by IAAC, which usually decides what institutions to include in the assessment in the given calendar year based on many factors, such as the lowest-scoring institution according to the results of the Corruption Index Survey, also commissioned by IAAC annually. Moreover, the nature and scope of the service are also considered in the analysis when deciding which public institution to include in that calendar year's assessment. And finally, since IAAC has limited resources, finance comes into play when deciding how many organizations to be involved in the assessment in a single year. However, any government organization or public enterprise can apply for an assessment if that public body is willing

to pay the cost that the assessment may incur.

- IAAC has been closely cooperating with the Mongolian National Chamber of Commerce, Business Council of Mongolia, Mongolian Student Association, Mongolian Youth Association, Globe International, Mongolian Journalists' Union, and 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 Parties: challenges and solutions” together with Transparency International Mongolia and Glass Party, a partnership of NGOs against corruption on June 26, 2019. The forum focused on discussing whether the draft Law on Political Parties complies with the goals of the Strategy, international standards and good experiences and submit the outcome of the discussion to a working for drafting the law.

Moreover, Article 4.1.5.5 (to create a 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 to discuss the needs and barriers to establishing a legal framework. Over 50 representatives from more than 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, 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 also a positive outcome due to 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.

The Parliament of Mongolia adopted several laws and regulations to support corruption prevention. For instance:

- In June 2011, the Law of Mongolia on Information Transparency and Right to Information was passed. This law aims to regulate relations pertaining to ensuring transparency of the State and the rights of citizens and legal entities to seek and receive information.
- The Law on the Regulation of Public and Private Interests and Prevention of Conflict of Interest in Public Service (Conflicts of Interest Law) was passed in January 2012.

Enacting this law was an essential step toward improving the civil service's reputation. The law has 5 chapters and 30 Articles for eliminating corruption-causing factors, protecting from risks of corruption and corruption prevention. The law regulated the general obligation of the public to prevent conflicts of interest, ways to inform the authorities about possible conflicts of interest, and 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 No. 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. “Declaration of officials' personal interests and forms of declaration of assets and income, procedures for its registration, control and preservation.”

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 to the position. IAAC informs the result of reviews of each candidate that submitted their declarations during the Press briefing on the 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 the Ministry of Construction and Urban Development, Mongolian Agency for Standard and Metrology, and Ministry of Justice published on their official websites IAAC’s review report on the preliminary declaration of candidates nominated for the positions in their agencies.

After making amendments to Resolutions of the Standing Committee on Legal Affairs of the State Great Khural, IAAC receives the Preliminary private interest declaration electronically, so declarants have to print a page called “Confirmation form” after submitting their declarations electronically. Development of the electronic system began in 2017 and was finalized in 2018. At 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 Article 10(1)3 of the Conflict of Interest Law. The conflict of interest legislation forbids public officials and their related persons to open and operate bank accounts and private entities, and place money, immovable or movable assets in those jurisdictions. Furthermore, companies located in offshore jurisdictions are prohibited from bidding in public tender. Moreover, under Article 10(1)4 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 the 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 the way of buying shares during the tenure of his/her official duty, the abovementioned restrictions shall not be imposed. In contrast, if such acts were committed outside his official duty, the individual must inform the IAAC in written form. The deadline for informing the IAAC was April 6, 2018, and 20 officials informed IAAC about his activities in offshore zones.

In 2017, to implement the Resolution of the Government, the Head of IAAC amended his Decree No. 91 of 2012. A new decree was issued to approve 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, and incorporated legal entities in offshore zones. Also, the IAAC delivered guidance to 108 public agencies

on ensuring the implementation of the Resolution on Naming 49 jurisdictions as offshore zones.

- Law on Combating Money Laundering and Terrorism Financing was adopted in 2013.
- Law on Glass Accounts was adopted in 2014 and entered into force on January 1, 2015. The purpose of this law is to create a transparent system ("glass accounts") to enable public monitoring and [further] disclosure to the public regarding decision-making processes and activities [carried out] concerning implementing budget management for the purpose of efficiently allocating/spending State and local administration budget.

The law provides the establishment of an information system for budget execution and transparency, public monitoring mechanisms, and improved effectiveness of anti-corruption measures; a legal basis for awarding State-run services on a 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.<sup>9</sup> This enables the citizens to participate in the government's decision-making process, such as drafting laws, setting norms, administrative actions and approving budgets. The law increased public trust in the government.
- The General Administrative Law of Mongolia regulates damages caused by illegal decisions. Sanctions imposed on officers for violation of the law are specified in 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."

IAAC is working to establish an information mechanism for the loss or damages caused by civil servants' decisions and operations to be fully compensated by the wrong-doer (the civil servant).

- Revised Criminal Code<sup>10</sup> and Criminal Procedure Code<sup>11</sup> were adopted on December 3, 2015, and entered into force on June 1, 2017.
- Revised Law on Prevention Crime and Infringements was passed in May 2019 and became effective on January 1, 2020.

Mongolia has been paying particular attention to economic recovery and strengthening the fight against corruption, and most of the policy documents and laws approved by the Parliament of Mongolia incorporate anti-corruption principles. For example, through "Vision-2050" Mongolia's long-term development policy, "New Recovery Policy", the 2020-2024 action program of the Government of Mongolia, and the Main Direction for improving Mongolia's legislation until 2024 by strengthening the justice system, the Government of Mongolia is working to reduce corruption and malfeasance crimes, and to strengthen the relevant legal framework. The Government of Mongolia is also in late stage of implementing the "Five-Year Development Plan for 2021-2025" which was adopted by Resolution No23 of the Parliament of Mongolia in 2021. The plan includes

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<sup>9</sup> Available at: <https://legalinfo.mn/mn/detail/11225>

<sup>10</sup> Available at: <https://legalinfo.mn/mn/detail/11634>

<sup>11</sup> Available at: <https://legalinfo.mn/mn/detail/12694>



“corruption free governance” as one of its sub-objectives, and strives “to build public culture that follows integrity and legal and policy framework for preventing from corruption and conflict of interest.

Moreover, the goals and activities of combating and preventing corruption are included not only in long- and medium-, but short-term development policies and planning documents. For example, actions and measures aimed at preventing corruption is included in the section on “Improving Governance Indicators” of “Mongolia’s Development Plan for 2024” which was drafted by the Ministry of Economy and Development and approved by Resolution No39 of the Parliament of Mongolia in 2023.<sup>12</sup>

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.

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<sup>12</sup> Developments after the Country visit, as reported by Mongolia: From June 2022, the work of revising the National Anti-Corruption Program started. During the development stage of the draft, a total of 12 discussions were held, and about 250 comments and feedbacks were received and reflected in the provisional document, involving government and non-government organizations, private sector, international organizations, and citizens.

Draft of the program was disseminated through mass media, websites and in the "Justice" magazine published by IAAC, the latter of which was delivered to state and local government organizations and citizens, and comments were received and reflected accordingly.

The National Anti-Corruption Program was passed by Resolution No. 59 of the Parliament of Mongolia on June 30, 2023. The program aims to create the basic conditions for implementing Mongolia's long-term development policy "Vision-2050", to reduce corruption and malfeasance crimes by strengthening the national justice system, to strengthen the legal framework to prevent corruption and conflicts of interest, and to ensure integrity at all levels of society (public service, private sector, SOEs, NGOs, media etc.). It is a medium-term target program to be implemented between 2023-2030, which is also aligned with the other long-term policy documents such as "New Revival Policy". A total of 11 goals, 45 objectives, and 201 activities are planned to be implemented between 2023-2030.

Furthermore, in order to intensify anti-corruption efforts, the Government of Mongolia has declared 2023-2024 as the "Anti-Corruption Year", and implemented "Five-Sh" Anti-Corruption Operations. The "Five-Sh"<sup>12</sup> (Sh” is first letter of Whistle, Broom, Bird, Transfer and Glass in Mongolian alphabet.) is comprised of multifaceted measures involving social, economic, legal, and institutional spheres to eliminate the main cause that stifle the development of Mongolia, particularly corruption, or so-called "white-collar" crimes. It includes the goals aimed at improving economic growth by supporting the development of the private sector, protecting public interests by ensuring human rights, stopping corruption at all levels by fostering a culture of non intolerance to corruption and other illegal acts with the support and participation of the general public.

One of Five “Sh” - Operation Whistle: The bill on the legal status of a whistleblower is projected to be approved during the spring session of the Parliament. It would aim to create conditions for whistle-blowing in the public interest, support whistle-blowing activities in every way, protect whistle-blowers, nurture zero tolerance to corruption, protect the legitimate interests of citizens and the private sector, and cultivate cooperation between state and private stakeholders. Two of five “Sh” – Operation Broom: It aimed to identify politically influential officials that has an unexplained high amount of income, to create conditions that would restrict appointment to public offices through acquaintances etc., to ensure accountability for corruption, and to dismiss those officials from public office.

Three of Five “Sh” – Operation Bird: It mainly focused on returning within the framework of international agreements and laws and holding accountable those who have been accused of corruption, bribery, illicit enrichment, misuse of state property, and those who fled abroad during the investigation process. It also targeted to expand foreign cooperation on corruption matters, and protect rights of investors.

Four of Five “Sh” – Operation Transfer: It aimed to detect and bring back illegal assets hidden in offshore areas and foreign countries, confiscate illicit assets and income, build a mechanism for spending returned assets with the participation of the public.

Five of Five “Sh” – Operation Glass: It mainly aimed to supercharge the transparency of government organizations, state-owned companies and political party financing, strengthen ethical and fair competitive environment, and transparent business operations.

*(b) Observations on the implementation of the article*

The country's first national anti-corruption strategy was considered implemented in 2010. The State Great Khural (the Parliament) adopted a new national anti-corruption strategy in 2016, pursuant to article 21 of the Anti-Corruption Law. The strategy contains a section on the participation of civil society (sect. 4.1.7). Implementation of the strategy began in 2017 and led to the adoption of a final report by IAAC in 2021. The strategy is implemented by all public entities. They submit yearly implementation reports to IAAC, which reports to the Parliament (sect. 8 of the strategy). The strategy was scheduled to be evaluated in September 2022, and a new strategy was expected to be developed following that.

*(c) Technical assistance needs*

The following technical assistance needs have been identified and reported:

- Assistance with the adoption, implementation, monitoring and evaluation of the National Anti-Corruption Programme, which is projected to be adopted in the second quarter of 2023;
- Assistance with strengthening the anti-corruption statistical framework, in connection with measuring the achievements of and progress made by the National Anti-Corruption Programme once it has been adopted.

*Paragraph 2 of article 5*

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

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Articles 5 and 6 of the Anti-Corruption Law provided common duties of economic entities, organizations and citizens to raise public awareness and prevent 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 intolerance 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 intolerance of any form of corruption among the general public, etc.

In this context, the Anti-Corruption Law specifies the 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 the sole responsibility of the IAAC, and it is recognized by national legislation.

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

IAAC implements its coordination function by providing recommendations and technical assistance to public organizations. The recommendations and technical assistance are provided after on-or-off-site inspections conducted by IAAC's staff. Also, IAAC proactively issues recommendations to public organizations contingent on the current social or economic climate, such as health sector procurement issues during the pandemic. Also, social media sites often reveal many corruption-related issues and require IAAC's prompt action. After such incidents, IAAC provides recommendations or technical assistance when necessary. IAAC organizes the awareness-raising activities such as training and anti-corruption campaign and often by other public institutions. IAAC usually doesn't get involved in every anti-corruption campaign conducted by other institutions but does so on request (giving training, providing anti-corruption content, supplying other educational materials etc.). Furthermore, IAAC requires all public organizations and enterprises to implement an anti-corruption plan annually. IAAC enforces this requirement by prompting those organizations and bodies. For instance, IAAC staff urges and checks if the organization has an active anti-corruption plan as part of the on-or-off-site inspection. Besides, it is common practice among public organizations to have an anti-corruption plan. The prevention mentioned above and public awareness activities are followed through by IAAC daily. But the most fundamental mechanism IAAC employs when it comes to implementing its anti-corruption coordination function is National Anti-Corruption Strategy. The Strategy legally binds government and non-government institutions to implement anti-corruption measures, and IAAC is responsible for monitoring its implementation. The parties involved in the Strategy submit their progress reports to IAAC annually. Then, IAAC conducts an assessment and reports the results to the Standing Committee on Legal Affairs of the State Great Khural and the public.

In order to achieve the objectives of the National Anti-Corruption Strategy, various activities are being implemented to achieve the following:

- Build the capacity of private enterprises and conduct research on the possible transfer of certain government rights/powers to private enterprises, and determine the boundaries of cooperation between the State and the private enterprises;
- Improve the legal framework in respect of restricting cartels and unfair competition;
- Ensure transparency of the minerals exploration sector;
- Improve the Law of Mongolia on the Non-Governmental Organizations to ensure transparency of operation and financing of the non-governmental organizations;
- Enable the non-governmental organizations to monitor the operation of government organizations and their administration; create a mechanism for transferring government's certain rights/powers to non-governmental organizations, and for monitoring the transparency and effectiveness of the transferred government funds;

- Enable non-governmental organizations 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; establish legislation that releases the claimant from the obligation to pay the stamp duty fee for the said dispute; and seek support from non-governmental organizations and professional associations on the investigation of corruption and abuse of power crimes;
- 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 instill zero tolerance for corruption;
- Organize multilateral activities covering educational organizations and families to build citizens with zero tolerance against corruption and include anti-corruption topics in the study curriculum and standards of all levels of educational programs;
- Train and support teachers in charge of conducting anti-corruption training courses and campaigns.

Under Article 6.1.9 of the Anti-Corruption Law, public entities shall seek comment from IAAC before adopting their codes of ethics. For example, in 2018, IAAC reviewed a draft code of ethics submitted by the Governors' 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 its code of ethics has already become a mandatory routine for public entities.

According to 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, IAAC shall insist on revising and invalidating orders, decisions, procedures and rules enacted by public bodies or officials. Article 6.7 of the law also 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 IAAC. In 2017, the Head of IAAC issued his Decree No. 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 wholly 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 No. 218, 2001, of the Minister of Environment on "Temporary rules for issuing a license for land use in Special Protected areas"
- Decree No. A/219, 2017, of the Minister of Mining and Heavy Industry "Rules for the selection process to grant special licenses"
- Decree No. 211, 2011, Agency of Petroleum Oil, "Rule for spending fund to support representatives' activities"
- Protocol of Meeting No. 28/01, 2009, of Professional Council of General Customs Agency.

- Decree No. 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 are detected, an investigator and prosecutor shall write a request to take measures to eliminate such cause and condition and attach the copy of it in the criminal case file." Further, Article 29.6.2 states that "the legal person shall take the said measures specified in the request and inform the investigator and prosecutor within a month." In this context, investigators of IAAC regularly track whether 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 the implementation of the remark made by investigators. Within this framework, IAAC teams suggested sending materials related to two officials for criminal investigation and referred to related law enforcement agencies, conducted anti-corruption training courses for 108 officials of 7 organizations, gave methodological advice to 10 officials in person, and conducted inspections on activities of 2 organizations.

Under Article 4.1.1.5 of the Strategy, which states "to approve the methodology for corruption risk assessment and to accustom to analyze its implementation," the Head of IAAC issued a Decree No. A/40 on "Methodology for Corruption Risk Assessment." 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 assessed 15 legal persons from health, education and State-owned. IAAC informs the public of the assessment results and cooperates with the organizations to eliminate corruption risks detected. IAAC hires external research institutions and NGOs to execute the assessment.

For instance, the following 15 public entities were evaluated in 2019.

- 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup> State Central Hospitals, Maternity Hospital, National Center for Contagious Diseases, National Centre for Injury and Deformity, National University of Mongolia, Mongolian National University of Medical Sciences, Mongolian State University of Education, Ulaanbaatar Electricity Grid State-owned Enterprise, Center for Auto-Transportation, Defence Manufacturing Corporation, Mongolian Airlines State Owned Unlimited Company, MongolPost State Owned Unlimited Company, and Agricultural Exchange State Owned Unlimited Company.

The corruption risks of each public body in question were identified and summarized in their respective reports. The following overarching risks were present in some of the institutions (hospitals), among other things:

- Lack of anti-corruption policy measures and regular updates to the existing policy documents;
- Outdated internal monitoring framework and its lack of human resources;
- Lack of funding for anti-corruption activities and efficacy of such activities;
- Lack of enforcement of code of conduct and any related activities that could promote the enforcement, such as campaigns, training etc.;
- Lack of accessibility and transparency of the information;
- Procurement issues and lack of responsibility of management and the members of the Evaluation Committee;

- Lack of human resource policy based on just and fair behavior;
- Lack of measures directed toward easing workload and office-related pressure and increasing compensation structure;
- Others included holding concurrent positions, conflict of interest, insufficient complaint recording and monitoring procedure, acceptance of payments not mandated by laws and bylaws, etc.

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 service they provide and decisions they make, and defined job positions with 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 their products, and interviewed the inspectors and issued advice to reduce the risk of corruption. Also prepared a special television show on the issue and broadcasted it to the public.

According to Article 18.1.6 of the Anti-corruption law, IAAC is obligated to give recommendations on anti-corruption public education, 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, and 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 the implementation of the given guidance.

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

- The number of decisions on rules and regulations out of the abuse of power and illegal fees and payments was decreased. (50 decisions were terminated. At the end of last year, IAAC advised agencies to terminate 48 illegal decisions.);
- State bodies started using hotline for receiving complaints and requests from citizens;
- In 2017, 844 officials sent their Preliminary private interest declarations (a mandatory process before the appointment) after they were appointed the new positions. This number decreased to 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 their total biddings electronically. The use of electronic systems for bidding in 2018 increased by 62.3 percent from the previous year.

Per 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 society, conduct training and prepare materials to enhance public awareness of this problem and educate on 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. IAAC organized a full-day training course 262 times for the last three years, and 21,574 people participated 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 building complex. The Public Center should become a place where IAAC organizes training courses with international organizations such as the 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 the anti-corruption legal framework and public awareness activities, share information with the public, and enlist the support of governmental and non-governmental organizations in corruption prevention activities.

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

IAAC organized two training courses on Investigative Journalism for journalists jointly with the "Independent Education and Development Center" in 2019. Also, IAAC conducted monitoring with the Press Council on the "Safety of Journalists".

In addition, the IAAC organizes a series of discussions, meetings and interviews with stakeholders to seek outcomes and policy-making issues, hear the parties' views, and develop recommendations for the decision-makers. During 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 the Standing Committee on Legal Affairs of the State Great Khural, 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 the 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 verdicts made during the forum and submitted recommendations to law enforcement agencies.
- IAAC, jointly with StAR of the World Bank/UNODC, 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. In total, 65 officials participated in the training course.
- The "Public Service and Citizen's Oversight" workshop was organized in January 2019 for the members of the Civil Oversight Subcommittee of IAAC.

- In December 2018, A conference organized by IAAC discussed issues of corruption in Mongolia, methodologies of research, the 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 the participation of all parties. In December, to celebrate International Anti-Corruption Day, IAAC, jointly with the Cabinet Secretariat of the Government, and the Mongolian National Chamber of Commerce and Industry, hosted a Forum on "Small and Medium Enterprise Development Fund: Issues and Solutions".
- Article 7 of the Conflict of Interest Law specifies standard rules for public bodies to prevent conflict of interest. This includes obligations for public bodies to establish and enforce a code of ethics on the 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; to provide written guidance on the prevention and resolution of a conflict of interest to the official who is or may be in conflict of interest; and to decide whether an official under his/her management can perform work and duties other than those related to the occupied position in cases such is allowed by Government decisions. If a public body becomes aware of any violations related to potential or actual corruption offence, the case must be transferred to the Agency Against Corruption for investigation.
- Articles 16.3 (procedure for official receiving, reporting and spending gifts through diplomatic procedures) and 16.10 (the procedure for evaluating, storing and spending the price and remuneration of gifts and services transferred to state ownership by officials) of the Conflict of Interest Law were implemented by the Government, and concerned procedures have been issued.

In 2017, the Head of IAAC issued his decree No. A/123 on Approving Procedure for delivering the information about the disciplinary punishment imposed on the official to the relevant persons and the public at his/her own expense. According to the procedure, IAAC receives information and decisions from related organizations and collects them in its database open to the public. In 2019, IAAC registered 12 officials who violated the Conflict of Interest Law and faced disciplinary penalties.

Pursuant to the Anti-Corruption Law and Conflict of Interest Law, the Standing Committee on Legal Affairs of the State Great Khural approved the Procedure for registration, verification and filing of officials' declaration of private interest and declaration of asset and income and the forms for declarations by its Resolution No. 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, officials must provide their income and asset declarations within 30 days from their appointment or election to public office and updated income and asset declarations by 15 February of each year to the organizations and officials specified in the law. A person shall declare within 30 days any substantial change equal to or exceeding his/her salary for six months that have occurred in his/her assets since



submitting his/her asset declaration. Since 2016, IAAC has updated its electronic income and asset declarations system. Since 2017, declarants do not have to print their full declarations but can submit them electronically and print only a confirmation form confirming their submission. As a result, we have created not only a new level of research, analysis, and reporting on the received declarations but also became able to conduct planning, making comparisons between the declarations.

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

For example, 39,742 people in 2017, 40,073 in 2018 and 41,382 in 2019 submitted their Declarations of private interest, assets and income.<sup>13</sup> IAAC reviews/verifies around 500-600 declarations yearly, either under planned review or based on complaints and requests. IAAC conducts its planned verification on organizations or sectors with high corruption risks. Also, the electronic system can identify massive amounts of increase or any other red flag, so the IAAC's review also focuses on such declarations. The verification process focuses on not only the declarant and his/her family members but also the declarant's "related persons".

Under the Anti-Corruption Law, IAAC published declarations of only high-level officials to the public in electronic information systems. In the first quarter of 2018, IAAC started publishing declarations of all declarants in the electronic information system.

Decree No. 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 Article 23.5. and Article 23.6 of the Conflict of Interest Law, 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 the 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 in 2016, 39 in 2017 and 25 in 2018, respectively.

Under Article 23.7 of the Conflict of Interest Law, the appointing organization or official must 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 appoints such a person, the official will face disciplinary responsibility for demotion, or if he/she repeats such actions, he/she will be fired.

In accordance with Article 8 of the Conflict of Interest Law, an official shall declare the 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,

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<sup>13</sup> Persons subject to declaration is provided by Article 4 of the Anti-Corruption Law, please see information provided under article 7(4).

negotiation and approval of contracts.

Paragraph 3.1.3 and 3.1.11 of Article 3 of the Conflict of Interest Law delineates the following situations: a) a conflict of interest situation, and b) a situation suggesting a conflict of interest.

According to the Law, "conflict of interest" means a situation where a private interest of a public official contradicts public interest in his/her official capacity and may negatively affect a fair and unbiased discharge of his/her official duties. Whereas "a situation suggesting a conflict of interest" means conducting an activity relating to a person suggesting a conflict of interest from the regard of the general public, such as a person who studied/is studying with a public official in the same class as well as a person who has the same membership with a public official in association, foundation, organization of collective decision making or a person who was born and raised in the same place.

A separate form is used for declaring the non-existence (absence) of a conflict of interest by a public official before performing some duties that would entail legal consequences, such as issuing administrative acts etc. In the face of actual or possible conflict of interest, the official shall put in the filled-out form to his/her employer or supervisor. The employer or supervisor makes the final decision in writing whether to permit the official to conduct the activity stated in his/her declaration by examining the justification presented in the form. The employer/supervisor shall decide that the official may continue with the activity only if:

1. There's no available official to fill his place in that same organization or administrative unit; or,
2. The action requires skill, qualification or expertise, and the official in question is the only available candidate.

In case of a situation suggesting a conflict of interest, the official in question also declares the issue using the same form. The employer/supervisor issues the decision in writing, examining the information presented in the declaration. However, inaction by the employer/supervisor will be considered a non-conflict of interest situation.

For example, in 2017, IAAC registered 32,287 officials who declared the non-existence of a conflict of interest and 850 officials who declared the existence of a conflict of interest.

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

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

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

### *(b) Observations on the implementation of the article*

Mongolia reported practices highlighted above to prevent corruption, including the introduction of

stringent rules aimed at preventing conflicts of interest in the process of decision-making in the public sector.

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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

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

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

Moreover, under Article 41.3 of the Law on Legislation, lawmakers can return the draft law within 72 hours if appropriate analysis based on the above methodologies has not been performed.

Under the General Administrative Law, in drafting an administrative norms act, impact analysis shall be made according to the 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 contains or potentially contains 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 Decree No. a/147 of 2018 on approving “Methodology for conducting impact analysis in preparing administrative norms acts.” This methodology entered into force on July 25, 2018. Under 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 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 research and analysis has been done. IAAC teams worked at all ministries, agencies, provinces, districts, and state-owned and partly state-owned companies and held focus interviews in terms of ensuring openness and transparency of the civil service and conducted related research.

According to 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. 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 IAAC. In 2017, the Head of IAAC issued his Decree No. 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 of local at sub-national level (aimags and soums).

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

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

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

According to paragraph 18.1.7 of the Anti-Corruption Law, 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 has become annual. This assessment is comprised of three types of sub-assessment, including external evaluation (from people who received public service), internal evaluation (from a public servant who provided public service) and evaluation from the people who take part in the policy-making process (from experts). Assessment is evaluated from 0-100 points, and 100 points illustrate the highest level of integrity. In 2015, 62 organizations and, in 2016, 60 organizations took part in the assessment. In 2018, 62 public institutions were 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 corruption and decrease the corruption risk. It is advisable to conduct measures based on the result of the survey.

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

According to the survey result, perceived levels of political corruption increased by 0.32 points

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

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

IAAC adopted the methodology of the Children's Integrity Survey from Transparency International Korea. It started in 2008. Children's integrity is evaluated from 1-5 points. 5 should be understood as the highest level of integrity. In 2010, the result was 3.29; in 2019, it reached 3.91. This survey aims to introduce the precise and preventive actions that children should take to ensure fairness and ethics.

According to the Corruption Perception Index of Transparency International, Mongolia was ranked 93<sup>rd</sup> out of 180 countries. Compared to the previous year's score, Mongolia got 1 point.

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 the World Justice Project, Mongolia scored 0.55 points and ranked 53<sup>rd</sup> out of 126 countries. Mongolia was placed 52<sup>nd</sup> in the previous year.

2017: Study of Private Sector Perceptions of Corruption (STOPP) <https://asiafoundation.org/publication/study-private-sector-perceptions-corruption-stop-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 citizens' evaluation of public service organizations and corruption situations in Mongolia.

In 2018, National Audit Authority took a Customer satisfaction survey from 34,969 taxpayers. 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 respondents said paying taxes using the Internet and mobile applications was better.

These surveys need to be publicized, and relevant government agencies need to take action and use its results when making policy and ensuring implementation.

## Examples of implementation

The result of the Integrity Survey of 2021 made by IAAC is as follows:

### Ministries.

- Ministry of Nature and Tourism – 66.1
- Ministry of Construction and Urban Development – 73
- Ministry of Defense – 69.5
- Ministry of Education and Science – 72.2
- Ministry of Foreign Affairs – 73.7
- Ministry of Road and Transportation – 73.6
- Ministry of Finance – 73.4
- Ministry of Culture – 77.8
- Ministry of Mining and Heavy Industry – 72.4
- Ministry of Labor and Social Welfare – 75.6
- Ministry of Justice and Home Affairs – 70.9
- Ministry of Food, Agriculture and Light Industry – 72.1
- Ministry of Health – 68.2
- Ministry of Energy – 79.9

### Provinces.

- Arkhangai – 68
- Bayan-Ulgii – 61.8
- Bayankhongor – 68.8
- Bulgan – 71.5
- Gobi-Altai – 72.4
- Gobisumber – 68.8
- Darkhan-Uul – 74.6
- Dornogobi – 68
- Dornod – 71.4
- Dundgobi – 72.8
- Zavkhan - 68.2
- Orkhon – 76.5
- Uvurkhangai – 78.4
- Umnugobi – 68.4
- Sukhbaatar – 72.9
- Selenge – 76.3
- Tuv – 74.5
- Uvs – 77.8
- Khovd – 67.3
- Khuvsgul – 59
- Khentii – 81.1

### Legend:

Highest Integrity Level – 100

Lowest Integrity Level – 0

*(b) Observations on the implementation of the article*

Mongolia has reported relevant measures regarding the assessment of relevant legal instruments and administrative measures implemented to determine their adequacy to prevent and fight against corruption.

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

According to the Anti-Corruption Law, IAAC has full power to cooperate and exchange information with foreign and international organizations on corruption issues.

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

For example, Mongolia<sup>14</sup> became a member of APG on Money Laundering in 2004. Mongolbank works to ensure the implementation of recommendations given by FATF. Mongolia became a member of the Egmont group in 2009. This facilitates Mongolia to implement UNCAC fully.

At agency to agency level, IAAC signed a Memorandum of Understanding with The Supreme People's Procuratorate, Anti-Corruption and Civil Rights Commission of the Republic of China, Serious Fraud Office of the 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 the “Agreement for the Establishment of the International Anti-Corruption Academy (IACA) as an International Organization” and signed an 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 the World Bank and UNODC
- OECD Eurasia Competitiveness Programme

As of 2021, Mongolia entered into 19 bilateral agreements on mutual legal assistance in criminal matters, 6 treaties on extradition of perpetrators, 8 agreements on extradition of convicted persons

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<sup>14</sup> <https://apgml.org/members-and-observers/members/details.aspx?m=ee2ef268-6106-40ec-806e-bec3987f9f88#:~:text=Mongolia%20became%20a%20member%20of%20the%20APG%20in%20June%202004.>



with respective countries. IAAC sends mutual legal assistance requests on its cases to Central authorities of foreign jurisdictions through the 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 the European Convention on Transferring Prisoners between countries. Mongolia already reached an agreement to sign a mutual legal assistance agreement with the EU, and the work is still being finalized.

Example: Everyday IAAC studies international anti-corruption efforts to explore international anti-corruption best practices, networks and initiatives, and if necessary, provide some related information to the public. Relevant 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 has 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. Regarding countries that joined UNCAC, Canada provided assistance, Switzerland refused to assist without Agreement, and USA, Australia, Germany did not respond.

Costs for translation of mutual legal assistance requests and other materials are reflected in the "Fund for Assistance to Citizens of Mongolia Living Abroad" as of 2018, by Resolution No. 179 of the Government of Mongolia.

As of December 10, 2018, Mongolia received 174 mutual legal assistance requests from both domestic and foreign organizations and took specified actions. In 2018, 4 MLA requests were sent to 7 countries (England, Panama, Singapore, Hongkong, Austria, Canada, China) using UNCAC as its ground. In 2019, 26 MLA requests were sent to (Switzerland, Mayne Island, Russia, China, South Korea, Germany, Canada, Hongkong, France, Switzerland, USA, and Singapore etc.) using UNCAC its ground.

### *(b) Observations on the implementation of the article*

Mongolia has collaborated with foreign countries and relevant international organizations and initiatives to promote and develop measures to prevent corruption. The international cooperation efforts also concern issues relating to combating corruption.

## Article 6. Preventive anti-corruption body or bodies

### *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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Paragraph 1 (a):

The Anti-Corruption Law of Mongolia adopted in 2006 specified in Article 15.1 that the Independent Authority Against Corruption (IAAC) 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 Authority specified in Article 15.1 of this Law. The State Great Khural (Parliament) shall decide on the establishment, form, and dissolution of the IAAC based on recommendations of the National Security Council.

The 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 /Article 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 solely responsible for corruption prevention activities but rather give methodological guidance and advice, conduct review and verification, and closely cooperate with State, local and civil society organizations. IAAC, as a central body in charge of anti-corruption across the country, is a leading organization in this respect. For this reason, IAAC focuses on improving and spreading corruption prevention knowledge. Public bodies closely work with the Prevention and Public Awareness Department of IAAC to get methodological advice and support for implementing and organizing anti-corruption action plans of their respective authorities.

**Anti-Corruption Law**

Article 15. Anti-Corruption Agency

*15.1. 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.*

*15.2. 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.*

*15.3. The State Great Khural shall decide on the establishment, form, and dissolution of the Anti-Corruption Agency based on recommendations of the National Security Council.*

*15.4. The Anti-Corruption Agency shall have its logo. The design and procedures for the use of the logo shall be approved by the Head of the AntiCorruption Agency.*

*15.5. The Anti-Corruption Agency shall use a stamp, seal and an official letterhead developed in accordance with set procedures.*

#### Article 18. Functions and mandate of the Anti-Corruption Agency

*18.1. The Anti-Corruption Agency assumes the following functions to educate and raise public awareness and prevent corruption:*

*18.1.1. Organize nation-wide the anti-corruption education and corruption prevention, coordinate anti-corruption activities, develop a consolidated program,, provide methodological guidance and monitor the implementation of this Law;*

*18.1.2. Provide directives and guidance to aimag, capital city, soum, district and ad-hoc crime prevention councils regarding anti-corruption education and corruption prevention, and the coordination of activities;*

*18.1.3. Conduct, at least once every two years, a survey on the scope, forms and causes of corruption, establish a corruption index, and inform the public;*

*18.1.4. Undertake organizational measures to support and assist anti-corruption actions, initiatives and recommendations of NGOs, communities and individuals, and promote their participation;*

*18.1.5. 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;*

*18.1.6. 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;*

*18.1.7. 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.*

*18.2. The Anti-Corruption Agency shall assume the following functions to investigate assets and income declarations:*

*18.2.1. Conduct training, issue manuals and instructions regarding the correct and accurate declaration of assets and income;*

*18.2.2. Upon written or oral request, provide guidance on how to complete, amend, register or transfer the declarations, and respond in writing in a manner that protects the confidentiality of answers;*

*18.3. 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.*

*18.4. The Anti-Corruption Agency shall exercise the following mandate:*

*18.4.1. Submit to respective authorities proposals on adopting government anti-*

*corruption policy and resolutions, and on further amendments to improve anti-corruption legislation;*

*18.4.2. 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;*

*18.4.3. Obtain from government bodies information, surveys and reports, regarding their anti-corruption public education and corruption prevention activities;*

*18.4.4. Obtain necessary information, surveys, explanations, definitions and other documents, free of charge, from businesses and entities, officials and individuals, and review these materials and acquire expert analyses and verifications;*

*18.4.5. Conduct undercover work and cooperate with other agencies in charge of investigative and intelligence-gathering work to conduct investigations to detect and stop corruption offences;*

*18.4.6. Accept and inspect corruption-related requests and complaints;*

*18.4.7. Investigate corruption cases under its jurisdiction;*

*18.4.8. Collect data and information on matters pertaining to its functions and keep the information confidential;*

*18.4.9. Take measures to ensure the security of the Agency and its staff;*

*18.4.10. Obtain written guarantees from officials and individuals to maintain the confidentiality of information that they are exposed to in the course of investigations, in case of violation of the guarantee, they shall assume responsibility according to legislation;*

*18.4.11. Transfer for further investigation of all violations of the Law, irrespective of the specific corruption offence, identified during the course of investigative work, to the competent authority, and to investigate breaches specified in Articles 6.6, 7.1.7 and 7.1.8 of this law and to transfer such breaches to the relevant organisations;*

*18.4.12. Implement the protection measures stated in Law on Protection of a Witness and victim;*

*18.4.13. Obtain from each respective authority the list of government officials due to declare their assets and income, and review the declarations;*

*18.4.14. Supervise the competent organizations' and officials' adherence to the procedure for registering, storing, and monitoring declarations of assets and income declarations, and provide them with information;*

*18.4.15. Oversee and investigate the submission of assets and income declarations by declarers, and impose the penalties on those persons who fail to submit in a timely fashion, or who deliberately provide false information.*

*18.4.16. Prepare written guidance and recommendations on matters related to assets and income declarations;*

*18.4.17. Cooperate with respective foreign and international organizations, and exchange information related to combating corruption;*

*18.5. The Anti-Corruption Agency may investigate particular cases in collaboration with the Police and intelligence authorities upon approval of the Prosecutor General.*

*18.6. In exercising its mandate, The Anti-Corruption Agency will adhere to procedures stipulated in the Criminal Procedures Law, the Law on Undercover Operations and this Law.*

Article 7 of the National Anti-corruption Strategy stipulates that the IAAC shall monitor the implementation process of the Strategy and submit the report to the Standing Committee on Legal

Affairs of the State Great Khural. The Head of the IAAC shall approve and enforce assessment criteria and methodology to assess the implementation of the Strategy.

According to the Anti-Corruption Law, the IAAC is obligated to implement public anti-corruption campaigns explaining the gravity and threat posed by corruption on society, conduct training and prepare materials to enhance public awareness of this problem and raise awareness of 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 group specifically on introducing corruption, its cause and harm, preventing 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, on average, take part in the 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 is “to engrain ideology of fairness, to organize public awareness activities against corruption in stages, and to enhance knowledge of corruption risks.” In order to implement this objective, 5 tasks with 10 activities were included in the Action Plan for Implementing the Strategy and are currently being implemented.

Other objectives specified in the Strategy, including establishing a public service training institution, providing possibilities for public servants to be re-trained, organizing regional anti-corruption training courses and workshops, renewing the education curriculum for judges and prosecutors, improving their professional skills (Article 4.1.5.3), adding 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 to implement the abovementioned objectives of the Strategy. On December 9, 2017, International Anti-Corruption Day, the Public Center, which can

accommodate 170 people at a time, was opened. The primary purpose of the Center is to organize anti-corruption training courses, spread information and conduct public awareness activities for public servants, citizens, the 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.

To improve the content and format of the training courses, IAAC closely cooperates with professional organizations and research institutions to study the needs and requirements of anti-corruption training courses for public servants and renew its course modules and programs regularly.

Moreover, as IAAC does not have any local branches, IAAC started using “train the trainers” modules and organized several pilot courses. IAAC and the National Academy of Governance jointly drafted course modules on 6 main topics. IAAC also worked with the National University of Mongolia and the Mongolian State University of Education to draft and disseminate a mandatory study curriculum on preventing ethical violations and conflicts of interest for public servants. Within the framework of the “Towards a Professional and Citizen-centred Civil Service in Mongolia” project by UNDP, IAAC organized its workshops with the “train the trainers” modules.

The pilot training course to prepare trainers for the study module for Ethical Norms for Public Servant and Regulation of Conflict of Interest was held on December 15-17, 2018. In all 132 persons, of which 63 public officials from 21 aimags and 69 members of civil oversight councils were participated in the training. People who took part in the course, now trainers jointly with the IAAC officers, co-organized a 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, and publishes posters, video advertisements, handbooks, and handouts yearly. When doing such work, we focus on each target group, such as children, youth, public servants, citizens, and business people, with different approaches and under carefully planned stages.

### *(b) Observations on the implementation of the article*

The Anti-Corruption Law established IAAC as a special independent governmental body entrusted with raising public awareness of corruption, undertaking corruption prevention activities, carrying out investigations with a view to detecting corrupt acts, and reviewing asset and income declarations (art. 15). IAAC also monitors and evaluates the implementation of the Law and informs citizens and the public about the implementation process (art. 18).

### *(c) Successes and good practices*

IAAC monitors and evaluates the implementation of the Anti-Corruption Law.



*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

The Anti-Corruption Law regulates responsibilities and mandates and ensures the independence of the Independent Authority Against Corruption (IAAC) in line 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 Articles 28, 29, 30, and 31 set out political, economic, social and legal guarantees of the Authority, respectively in the law. According to Article 21.1, the Head of the IAAC is appointed for a 6-year term by the State Great Khural (Parliament) by undertaking an appointment hearing based on the nomination made by the Prime Minister of Mongolia. The IAAC has a Deputy Head. The Deputy Head is appointed by the State Great Khural by undertaking an appointment hearing for a 6-year term based on the nomination made by the Head of the IAAC.

Under Article 22 of the Anti-Corruption Law, The Head and Deputy Head of the IAAC 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.

Under 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 IAAC, and other officers, without permission of the State Great Khural.

**Anti-Corruption Law**

Article 21. Appointment of the Head and Deputy Head of The AntiCorruption Agency, and the terms of their mandates

- 21.1. *The Head the Anti-Corruption Agency shall be appointed for 6-year terms by the State Great Khural, based on the nomination by the Prime Minsiter of Mongolia.*
- 21.2. *The Anti-Corruption Agency shall have a deputy head. The State Great Khural, based on nomination by the head of the Anti-Corruption Agency shall conduct open hearing and appoint the deputy head of the Anti-Corruption Agency for 6-year term.*
- 21.3. *The Head or Deputy head of The Anti-Corruption Agency shall meet the following criteria, in addition to the requirements specified in Article 19.1. of this Law:*
  - 21.3.1. *A candidate for the office of the head of the Anti-Corruption Agency shall have at least 15 years of prior experience in government service, shall be at least 45 years of age, shall be a lawyer by profession, and shall possess relevant managerial and*

*professional experience, and shall not have held a political position for the last 5 years;*

21.3.2. *A candidate for the office of the Deputy head of the Anti-Corruption Agency, shall be a lawyer by profession, and shall have at least 10 years of experience in government service, shall have experience in undercover and investigative work, and shall not have held a political position for the last 5 years;*

21.4. *The head and deputy heads of the Anti-Corruption Agency may be re-appointed for an additional term.*

21.5. *Terms of office of the head and deputy heads of the Anti-Corruption Agency shall commence the day of their appointment and end with the appointment of the next head and deputy head.*

21.6. *Terms and mandates of the head and deputy head of the Anti-Corruption Agency who were appointed as a replacement shall begin from the day of their appointment and continue until the remaining term, specified in Article 21.1 and 21.2 of this Law.*

#### Article 22. Suspension from duties and dismissal from office of the Head or Deputy head of The Anti-Corruption Agency

22.1. *The Head and Deputy of The Anti-Corruption Agency shall be relieved from their duties in the following cases:*

*22.1.1. upon his/her own request;*

*22.1.2. if the person is unable to fulfill his/her duties for health reasons;*

*22.1.3. if the term of his/her mandate expires.*

22.2. *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 s/he shall be dismissed from office from the day of the court verdict.*

22.3. *The Head or the Deputy head of the Anti-Corruption Agency may apply for retirement to the State Great Khural in writing, if such an application is submitted during the State Great Khural session, it shall be considered within 21 days, if it is submitted in the interim between sessions, it shall be considered within 21 days from the date that the sessions reconvenes.*

22.4. *If the head or the deputy head of the Anti-Corruption Agency is connected to a crime, arrested as stated in 31.2 of this law, and the Prosecutor General submitted to suspend his/her mandate to the State Great Khural, the proposal shall be resolved within 14 days of its receipt.*

22.5. *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 this Law.*

If the Head or Deputy Head of the IAAC 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 IAAC, 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, suspend the mandate, or dismiss from office the Head or Deputy Head of the IAAC on grounds other than those specified in 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 IAAC. The Prosecutor shall supervise the undercover operations, investigations, and inquiries by the IAAC according to the bases and procedures specified in the Law on Undercover Operations, the Criminal Procedures Code, and Law on the Prosecution. To ensure active public involvement in combating corruption, to voice its opinion, and 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.

### **Anti-Corruption Law**

#### Article 27. Public council

27.1. *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 The Anti-Corruption Agency.*

27.2. *The Public council shall be composed of 15 members, and the President of Mongolia shall assign for four-year term as members of the Council, people with good reputations, without any criminal past, and representing the civil society.*

27.3. *Government political and career government officers cannot be candidates for membership on the Public Council.*

27.4. *Members of the Public Council shall not disclose secrets related to operation of The Anti-Corruption Agency.*

27.5. *The Procedures for the Public Council operation shall be approved by the President of Mongolia.*

Moreover, under Article 14.1,14 and Article 16.4.10 of the Budget Law, the Head of the the IAAC concerning the budget of the IAAC is a general budget governor, and the Director of the Administration Department of IAAC is a direct budget governor.

When IAAC was first established in 2007, its total number of staff was 90 and increased to 145 in 2012, 172 in 2017 and 232 in 2019, and the 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 resources 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 three 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.

#### *(b) Observations on the implementation of the article*

IAAC is legally mandated to operate independently, and it is prohibited for anyone to interfere in its operations (art. 16 of the Anti-Corruption Law). The head of IAAC is appointed for a term of six years by the Parliament, following a public hearing process and nomination by the Prime Minister. The appointment of the Deputy Head of IAAC follows the same procedure, except that the Deputy Head is nominated by the Head of IAAC (art. 21 of the Law). They can be removed

from office only on the limited grounds specified in article 22 of the Law. IAAC is provided with sufficient funding.

A public council has been established under the supervision of the President to ensure active public involvement in combating corruption and to advise on the situation regarding corruption and the implementation of the Anti-Corruption Law (art. 27 of the Law). It has not been allocated adequate resources to carry out its mandate.

### *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.*

#### *(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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 would be in charge of receiving and executing mutual legal assistance under UNCAC.

#### *(b) Observations on the implementation of the article*

Mongolia has implemented its obligation to inform the Secretary-General of the UN of the name and address of the appropriate authority for the purposes stipulated in the provision under review. IAAC is the authority that may assist other States parties to the Convention in developing and implementing measures for the prevention of corruption.

## **Article 7. Public sector**

### *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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

**Paragraph 1 (a):**

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

**Civil Service Law**

**Article 6. Classification of the civil service**

*6.1. The civil service shall be divided into the following categories:*

- 6.1.1. political service;*
- 6.1.2. public administration service;*
- 6.1.3. special state service;*
- 6.1.4. public service.*

*6.2. The services specified in Articles 6.1.2 and 6.1.3 of this Law shall be regarded as the core civil service.*

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

- The principles of democracy, justice, freedom, equality, national unity and the 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 by hierarchical superiority.

In order to ensure efficiency, transparency and objective criteria such as the merit principle, the law provides detailed procedures for the selection, appointment and promotion of the public official, including the exam content. According to the new Civil Service Law, the examination is divided into two different types: general and special. The general examination is conducted at least once a year, and any person wishing to serve in the public sector can take it. Persons who pass the general exam are included in the reserve. The special exam is conducted whenever a vacant position is available in any public organization, and current employees of the public sector and persons included in the reserve are eligible to take it. “The Rule and Requirement for Civil Service Special Exam” was adopted by the 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 is a senior managerial post or lower hierarchical position, must be informed to the Civil Service Council within a week and is announced to the public via the official website of the Civil Service Council no less than 10 days before the examination date. Generally speaking, the vacant position in any public organization, whether it is a higher or lower hierarchical 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 is included in the reserve is eligible to take the special exam. An applicant who receives the highest score is nominated to the vacant position and consequently appointed to that post. It should be noted that promotion to a 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.

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 posts:

1. Legal knowledge required for the sector or position in question;
2. Analytical skills;
3. Problem-solving skills;
4. Mongolian verbal and writing skills;
5. Organizational skills;
6. Leadership skills;
7. Teamwork skills;
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. Public administration and special State service positions are considered core public administration positions.

### **Civil Service Law**

#### Article 22. General requirements for admission to the core civil service

*22.1. Unless specified in laws, a person admitted to the core civil service shall meet the following general requirements:*

22.1.1. to be a citizen of Mongolia;

22.1.2. to have higher education;

*Note: Article 22.1.2 shall not apply to assistant's positions specified in Article 10.2 of this Law.*

22.1.3. to have no criminal records of conviction by court for offences of corruption and abuse of power specified in the Criminal code;

22.1.4. to have spoken and written Mongolian language skills;

22.1.5. to have no mental illnesses or impairments;

22.1.6. to have fulfilled the duty to complete compulsory military service as provided by law.

*Note: Article 22.1.6 of this Law shall not apply to those citizens who reached the age of 18 before June 3, 2008; who are exempted from military service temporarily or permanently for medical reasons as certified by a medical institution or any other justifications provided by laws.*

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 12 years of employment in the public sector, of which at least 6 years employed in positions of “executive manager”; and attended and completed package qualifications trainings; as for disabled persons, candidates are required to have at least 6 years of employment in the public sector, of which at least 3 years of employed in positions of “executive manager”.
- In case of appointment for positions of “executive 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 “senior manager”; and attended and completed package qualifications trainings; as for disabled persons, candidates are required to have at least 4 years of employment in the public sector, of which at least 2 years of employed in positions of “senior manager”.
- In case of appointment for positions of “senior manager” categories, candidates are required to have at least 6 years of employment in the public sector, of which at least 3 years employed in position(s) of “associate manager”; and attended and completed package qualifications trainings; as for disabled persons, candidates are required to have at least 3 years of employment in the public sector.

In conclusion, the criteria and requirements for entering civil service and examination procedures are clarified in law and further extended in specific rules. The examination aims to reveal and identify the aptitude and skill of individuals 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 machine evaluates the exam papers, making them independent from human interference and efficient. Interested persons are allowed to supervise the examination process via cameras installed in the exam rooms, further increasing 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.

The ongoing development regarding the new draft Law on Responsibility of Civil Servants is

also worth noting.<sup>15</sup> The draft law aims to establish ethical standards and disciplinary norms and respective sanctions in case of breaching those standards and norms. The scope of the law is targeted to all classes 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 the voluntary ground. The disciplinary sanctions are reprimand, monthly salary decrease, and office dismissal. The central enforcing organization is Ethical Committee, which operates under the Civil Service Council. However, this draft law was still under development and discussion at the time of this report.

## **Civil Service Law**

### Article 33. Core civil service examination

33.1. Civil service professional examination shall be administered for the purpose of creating a pool of candidates for the core civil service and the selection and recruitment of core civil service servants.

33.2. Core civil service examination shall consist of the following types:

33.2.1. general examination;

33.2.2. special examination (for a given position).

33.3. General examination shall be taken by citizens who are interested to join the core civil service and met the requirements specified in Article 22.1 of this Law; special examination (for a given position) shall be taken by civil servants specified in Articles 27.1.1 and 27.1.2 of this Law and individuals registered in the reserve as provided in Article 27.1.3 of this Law.

33.4. General and special (for a given position) examinations stated in Article 33.2 of this Law shall be administered by the central authority for civil service.

33.5. Core civil service examination shall consist of test, interview and other types. 33.6. Core civil service examination shall have the following content:

33.6.1. to test management and organisational skills;

33.6.2. to test analytical skills;

33.6.3. to test problem-solving skills; 33.6.4. to test leadership skills;

33.6.5. to test spoken and written Mongolian language skills

33.6.6. to test teamwork skills;

33.6.7. other.

33.7. General examination for the core civil service shall be organised at least once a year.

33.8. A citizen who passed the examination stated in Article 33.7 of this Law shall be registered in the reserve for the core civil service. The duration of registration in the reserve for the core civil service shall be three years.

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<sup>15</sup> Developments after the Country visit, as reported by Mongolia: The draft was adopted on 4<sup>th</sup> May 2023. The law aims to establish ethical standards and disciplinary norms and respective sanctions in case of breaching those standards and norms. The scope of the law is targeted to all classes of public officials, including political, administrative, support and special services. It has two main procedures for ethical sanctions: Ethical Sanctions to be imposed on a Civil Servant (Article 16) and Voluntary Application of Ethical Sanctions for a Civil Servant (Article 17). An application of Article 16 would be based on violation of Common Ethical Requirements for a Civil Servant pertinent to Paragraph 8.1 and 8.2 of Article 8 of the Law. The types of sanctions under the article are: (1) Obliging to issue an apology to complaint issuer or to the public; (2) Reprimand the wrongdoer privately; (3) Reprimand openly in front of staff of an agency; (4) Dismissal from the civil service as per Law on Civil Service.

Article 17 can be applied as an alternative to Article 16 if an official chooses to accept the sanctions on a voluntary basis. This includes: (1) Issue an apology to coworkers, a complaint or report issuer or the public; (2) Accept the violation of ethical norms, and resign from the office on a voluntary basis.

33.9. *When administering a special examination (for a given position), the central authority for civil service may establish an examination council consisting of representatives from relevant institutions, professional associations, scholars and researchers.*

33.10. *Information on the upcoming special examination (for a given position) shall be announced through the media and web page of the central authority for civil service.*

33.11. *The central authority for civil service may delegate the functions stated in Article 33.7 of this Law to a non-governmental organisation, through an agreement. 3*

3.12. *The conditions and procedure for taking general and special examinations of the civil service, and a procedure for creating the reserve for the core civil service shall be approved by the central authority for civil service, based on consultations with the Government.*

#### Article 65. Central authority for civil service

65.1. *The central authority for civil service shall be the Civil Service Council (hereinafter as "Council").*

65.2. *The Council shall report to the State Great Khural on its activities.*

65.3. *The Council shall function as an independent body and have its secretariat, chapters, divisions of training and research and integrated database. The heads of the Secretariat and chapters shall be appointed and removed by the Council.*

65.4. *The structure and staffing of the Secretariat of the Council shall be approved by the State Great Khural.*

65.5. *The activities of the Council shall be financed from the state budget.*

65.6. *The Council shall issue resolutions within its competencies. Enforcement of decisions of the Council shall be mandatory for concerned parties.*

65.7. *An operational procedure of the Council shall be approved by the State Great Khural.*

65.8. *The Council's operation shall be immune from undue interventions and influence from any third party, including the President of Mongolia, Chairman of the State Great Khural, the Prime Minister, members of parliament and the Government, officials of parties, nongovernmental organisations, entities, organisations, and individuals.*

65.9. *Breach of Article 65.8 of this Law by an official shall serve as a ground for his/her dismissal from the civil service.*

#### Article 66. Powers of the Council

66.1. *The Council shall exercise the following powers:*

66.1.1. *unless otherwise provided by laws, to provide advice and methodological guidance in observing the ethical norms of civil servants by officials in managerial and executive positions;*

66.1.2. *to oversee the implementation of programmes on training, work conditions and social security of civil servants, provide professional and methodological support, carry out research and analyses related to the civil service;*

66.1.3. *to conduct inquiries and investigations of process of selection and appointment of core civil servants as per complaints and petitions from citizens, organisations and officials, issue instructions for remedial actions regarding detected breaches with a due date of completion, and to revoke decisions violating laws and regulations;*

66.1.4. *to conduct human resource audits in activities of state bodies for compliance with the civil service legislation and the merit principle stated in Article 3.1.3 of this Law;*

66.1.5. *to establish an integrated system of personal files and register of civil servants, and to organise the implementation of activities for providing the President of Mongolia, the State Great Khural, the Government, the General Judicial Council and other interested parties with information related to the civil service and civil servants;*

66.1.6. *to make, amend and enforce decisions on issues within its competencies in compliance with laws and regulations;*

66.1.7. *to submit a proposal to the State Great Khural and the Government in defining and approval of the structure and general organigram of public administration organisations, and to provide professional and methodological advice in functional review of government organisations;*

66.1.8. *monitoring and evaluation of implementation of civil service reform policies, strategies and human resource policies, track their progress, to prepare proposals and recommendations to improve their effectiveness, and to prepare proposals on drafting, review and approval of management related costs of the state and local budgets;*

66.1.9. *to implement civil service reforms and good governance principles, and to provide the executive government organisation and their chief executive officers with professional and methodological advice and services on issues related to change management, public administration and human resource management;*

66.1.10. *to collect and analyse information on programmes, projects and interventions implemented to strengthen the capacity of the civil service, provide services and recommendations for removing overlaps and gaps and improve their effectiveness;*

66.1.11. *to administer general and special (for given positions) examinations of the civil service and provide methodological guidance, to conduct selection of direct budget governors of public administration and public service organisations, and approve relevant procedures;*

66.1.12. *other powers assigned by laws and regulations.*

#### Paragraph 1 (b):

The Civil Service Council has organized 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 out of 21 aimags. The training covered all public officials in those aimags, and the main topic was the enforcement of the new Civil Service Law and its principles. The Civil Service Council visited the remaining 7 aimags in late 2019.

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

### **Civil Service Law**

#### Article 23. Specific requirements for civil service positions

23.1. *Specific requirements for political service and special state service shall be specified by relevant laws.*

23.2. *In addition to the general requirements specified in Article 22.1 of this Law, citizens who meet the following specific requirements shall be eligible for appointment to public*



*administration positions, unless otherwise provided by laws:*

*23.2.1. In case of appointment to positions of the senior principal officer category, candidates are required to have at least 16 years of employment in the civil service, of which at least 8 years served in position(s) of principal officer; attended and completed package professionalisation training;*

*23.2.2. In case of appointment to positions of the principal officer category, candidates are required to have at least 12 years of employment in the civil service, of which at least 4 years served in position(s) of senior officer; attended and completed package professionalisation training;*

*23.2.3. In case of appointment to positions of the senior officer category, candidates are required to have at least 8 years of employment in the civil service, of which at least 4 years served in position(s) of associate officer; attended and completed package professionalisation training.*

*23.3. A generic procedure on developing specific requirements for managerial and executive positions of the core civil service and job position description, shall be approved by the central authority for civil service, unless otherwise provided by laws.*

*23.4. Job description of public administration positions shall be developed, for each position separately, in accordance with the procedure stated in Article 23.3 of this Law, and approved by an appointing authority based on endorsement by the central authority for civil service.*

*23.5. No amendments shall be made in the specific requirements and job position descriptions specified in Article 23.3 of this Law, except for changes to mandates of a given organisation by laws and regulations.*

*23.6. Persons selected or appointed for positions subject to submitting personal interest, income and asset declaration as specified in laws, shall take actions specified in Article 101.4 of the Law on Regulation of public and private interests and prevention of conflict of interest in the public service.*

#### Article 24. Package professionalisation training

*24.1. The content and programme of package professionalisation training, specific to each position, which considers responsibilities and functions of a given position shall be approved jointly by the central authority for civil service and the Government.*

*24.2. Package professionalisation training shall be organised by a civil service training institution under the Government.*

The IAAC examines declarations of potential candidates for managerial and executive positions submitted by the recruiting entity or official and provides its response on whether a conflict of interest may arise in connection with the official duties attached to the position.

The IAAC 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 every quarter.

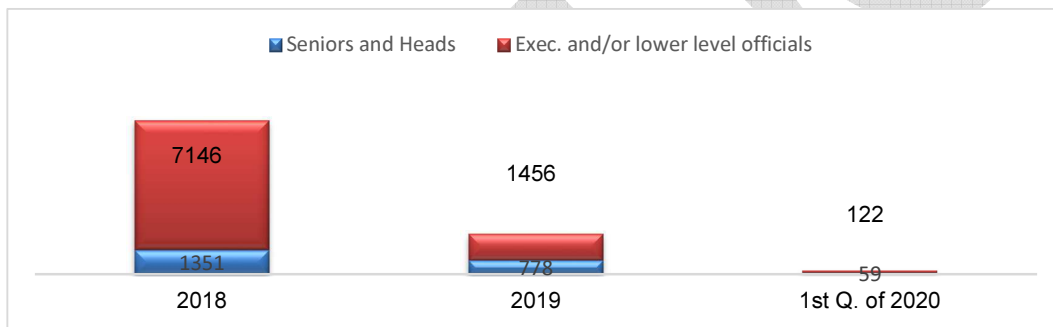
The training is aimed at the following target groups: heads of the units, internal auditors, officials in charge of human resources, legal advisors, procurement officers, officials in charge of finance and budget, and newly appointed officials.

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 the administrative decision-making process,” “Common mistakes committed during a public procurement procedure,” “Conflict of Interest,” “Corruption Crime and the new regulations,” “Prevention from Corruption.” The training lasts one day and is conducted jointly with specialists from the IAAC, 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, of which 1351 (15.9 percent) were senior managers and heads of the units, and 7146 (84.1 percent) were executive or lower-level officials.

As referred to in Article 24(1) of the Civil Service Law, the package training is being organized by Civil Service Council with support from the Cabinet Secretariat of the Government of Mongolia, UNDP and the Academy of Management in accordance with the content and program which were finalized by the joint decree No37/33 of 2019 by the Minister of Mongolia-Head of the Cabinet Secretariat of the Government of Mongolia and Head of the Civil Service Council.

In 2019, 2234 public officials were covered in training, of which 778 (35 percent) were senior managers and heads of the units, and 1456 (65 percent) were executive or lower-level officials.



As of the first quarter of 2020, 181 public officials were trained, of which 59 (32 percent) were heads of the unit, and 122 (68 percent) were executive officials.

To manage the workload between public organizations, utilize the knowledge and experience of public officials efficiently and prevent conflict of interest, “The rule on transfer and rotation of public officials” was adopted by a joint decree of the Government of Mongolia and the Civil Service Council in 2019. The official who has worked at the same organization for 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 organizations. The public official in question can initiate and submit his/her request for transfer to another public organization to the 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 to utilize and share the knowledge and experience of the public official in question, improving the organization's performance and/or preventing 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 a similar position in a similar organization.

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

In conclusion, there is no special rule for selecting and appointing officials for corruption-prone sectors or posts. The rotation is implemented to prevent potential conflicts of interest. The training is conducted by various public organizations on various levels, including corruption-related topics and lectures to safeguard from bribery.

Paragraph 1 (c):

Article 58 of the Civil Service Law specifies that when determining civil servants' salaries, 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 were adopted and enforced starting from January 1, 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 ensure transparent and equal remuneration in the public sector.

**Civil Service Law**

Article 57. Salaries of civil servants

*57.1. Civil servants shall be provided with remuneration from the state for performing functions and duties specified in laws and job descriptions.*

*57.2. Salaries of civil servants shall consist of the following:*

*57.2.1. Salaries of political appointment civil servants consists of the base salary of the job position and adjustments made for special work conditions and PhD degree;*

*57.2.2. Salaries of civil servants in public administration positions consist of the base salary of the job position, and adjustments made for the duration of employment in the civil service, ranks, grades, PhD degree and additional allowances provided by laws;*

*57.2.3. Salaries of civil servants in special state service positions consist of the base salary of the job position, and adjustments made for the duration of employment in the civil service, ranks, grades, PhD degree, the level of qualifications and other additional allowances provided by laws;*

*57.2.4. Salaries of civil servants in public service positions consists of the base salary of the job position, and adjustments made for PhD degree, the level and title of qualifications, skills, the duration of employment in the civil service and other additional allowances provided*

by laws;

57.3. No overlapping additional benefits for ranks and grades shall be provided to core civil servants.

57.4. Salary scales and pay structures for civil servants in political and special state service positions (excluding the Governor of soum and district, Deputy Governor of aimag, the capital city, soum, district, special positions in armed forces, border and internal troops, emergency, intelligence, police, court decision enforcement) shall be approved by the State Great Khural in consultation with the central authority for civil service, as submitted by the Government.

57.5. Salary scales and pay structures for the following civil servants shall be approved by the Government, based on the proposal submitted by the central public administration authority in charge of labour affairs and the central authority for civil service:

57.5.1. Governor of soum, district, bagh and horoo;

57.5.2. mayor of town and village;

57.5.3. civil servants in administrative positions;

57.5.4. officers and sergeants of armed forces, border and internal troops, intelligence, police, court-decision enforcement, emergency management agencies, and employees of court-decision enforcement and customs;

57.5.5. diplomatic officials;

57.5.6. civil servants in public service positions;

57.5.7. advisors, assistants and media officers who are recruited for the sole purpose of rendering service to politically-appointed civil servants during their office terms.

57.6. Additional pays and other necessary fringe benefits of civil servants in political positions, members of the Constitutional Court, judges and prosecutors of all levels, the president, first deputy and deputy governor of the Central Bank of Mongolia, chairman and members of the Financial Regulatory Commission, chairman and deputy chairman of the National Statistics Committee, chairman and secretary of the General Election Commission, chairman and members of the National Human Rights Commission, and civil servants who hold managerial and executive positions in the national and local audit offices and the Independent Authority Against Corruption shall be established by laws and regulations based on the proposals by the central public administration authority in charge of finance and budget affairs and the central authority for civil service.

57.7. A procedure for providing additional allowances and their amounts to civil servants stated in Article 57.5.3 of this Law shall be approved by the Government, based on the proposals by the central public administration authority in charge of labour affairs and the central authority for civil service.

57.8. Additional allowances and a minimum amount of other allowances for civil servants in public service positions shall be determined by the Government, based on the proposal by the central public administration authority in charge of labour affairs.

57.9. The grading of higher-ranking civil servants, and the coefficient for determination of salary levels equated to these grades shall be approved by the State Great Khural, based on the proposal by the Government.

57.10. The coefficient for determination of salary levels stated in Article 57.9 of this Law shall not apply to the chairman and members of the Constitutional Court, the chief justice and judges of the Supreme Court and the Prosecutor General and deputy prosecutor general.

57.11. Salary of civil servants in service positions may be determined on an hourly basis in compliance with the Labour law. The list of job positions, the salary of which is to be provided on an hourly basis, shall be defined by the Government.

57.12. *Civil servants in public administration positions shall be provided with additional pays specified in the Labour law.*

Article 58. Determination of salary levels for civil servants

58.1. *The following procedure shall be followed in the determination of salary levels of civil servants:*

58.1.1. *determine and enforce salary levels based on job analysis which defines the scope of activities of an organization, functions and responsibilities of job positions;*

58.1.2. *salary levels shall be linked with the average living standards of the population and the average salary of positions in the private sector.*

58.2. *In case where the average salary of civil servants falls 5 percent below the average salary of comparable job positions in the private sector, the Government shall prepare a proposal to increase salary levels of job positions and submit to the State Great Khural before discussions of the fiscal framework statements, and resolve according to a relevant regulation.*

Paragraph 1 (d):

Article 24 of Civil Service Law specifies the following regarding the package qualifications training:

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

*Please also see the information provided under paragraph 1(b) above.*<sup>16</sup>

*(b) Observations on the implementation of the article*

The civil service comprises four categories, of which the public administration service and the special State service constitute the “core civil service” (arts. 6 and 10 of the Civil Service Law). The Civil Service Law specifies the general eligibility requirements for admission to the core civil service, which include having no prior convictions for offences related to corruption or abuse of power (art. 22.1).

Professional examinations are administered on a regular basis for the recruitment of candidates to the core civil service (art. 33 of the Civil Service Law). The written part of the exam process is fully digital. The examinations are administered by the Civil Service Council (art. 33.4, read in conjunction with art. 65.1 of the Law).

The Civil Service Council is the central authority tasked with providing ethical guidance to officials in managerial and executive positions, overseeing the implementation of training and addressing complaints about recruitment and selection procedures (art. 66 of the Civil Service Law). All public

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<sup>16</sup> The list of certain high-risk positions was approved, and officials included in the list are required to submit his/her Preliminary Private Interest Declaration to IAAC for review. Please see page 4 and 11 in detail.

officials falling under the classification “public administration service” are required to follow ethics and anti-corruption training before promotion to higher positions (art. 23.2 of the Law). There are, however, no specific rules for the selection, appointment and rotation of officials in relation to positions that are vulnerable to corruption, and there is no list of such positions<sup>17</sup>. IAAC examines potential candidates for managerial and executive positions at the request of the entities recruiting them.

The Civil Service Law contains detailed provisions on the salaries, compensation, benefits and social security benefits of civil servants. Salary levels are linked to the average living standards of the population and the average salary of positions in the private sector (arts. 57 and 58).

**It is recommended that Mongolia identify public positions that are especially vulnerable to corruption, and ensure that adequate procedures are in place for the selection and training of individuals for such positions and the rotation, where appropriate, of such individuals to other positions.**

*(c) Successes and good practices*

- There is a fully digitalized written examination process for the recruitment and selection of civil servants;
- Mongolia has established an entity (the Civil Service Council) that is responsible for providing public officials appointed to managerial and executive positions with ethical guidance;
- IAAC examines potential candidates for managerial and executive positions at the request of the entities recruiting them.

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the**

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<sup>17</sup> Developments after the Country visit, as reported by Mongolia: A list of some officials subject to filing Private Interest Declaration and Asset and Income Declaration was adopted by Resolution No. 5 of 2012 by Standing Committee on Legal Affairs of the Parliament. As of 15 February 2023, the list includes 49.7 thousand officials such as political civil servants, high ranking political officials, core civil servants, staff of the support civil service above certain level and managers and competent officials of state or locally owned enterprises which are considered to be exposed to corruption risks (participation in administrative and/or financial decision making at some degree etc.) compared to other types of civil servants. Before the decision on appointment to the said positions on a temporary or permanent basis or switch to those posts, the appointing body receives Preliminary Private Interest Declaration from a candidate, and submits it to IAAC. IAAC reviews the Declaration within 10 days and responds back to the appointing body. As of 2022, 14.7 thousand Declarations were reviewed and corresponding responses were sent back to the appointing bodies. The appointing body is obliged to reverse its intention to appoint a candidate if the circumstance identified as a result of review signals certain conflict of interest.

**following information:**

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

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

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

According to Article 11 of 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 caucus 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 political positions in civil services.

From the above-mentioned positions, certain criteria are prescribed to the President of Mongolia, members of the Mongolian State Great Khural, and positions of chairmen of aimag / capital city / soum / district Citizens' Representatives' Khural according to the laws on the election which consist of the following three laws:

- Law on Presidential Elections
- Law on Parliamentary Elections
- Law on the Election of Citizens' Representative Khurals

**Law on Presidential Elections**

Article 26. General procedure for nomination of the President

*26.1. The process of nomination for the President shall be started 40 days before the date of voting and shall be completed within three days.*

*26.2. In addition to the general requirements specified in the law, the candidate must meet the following requirements:*

26.2.1. *not paying the debts of banks, other legal entities and citizens as determined by the court's decision, as well as mortgages and sureties;*

26.2.2. *to have no overdue tax debts, if he owns 51 percent or more of a company's shares, the company has no overdue tax debts;*

26.2.3. *not having mental disorders.*

26.3. *If the candidate holds the following job or position, he/she shall be released from the job or position before January 1 of the regular election year in the case of regular elections, or before the start of the nomination process stipulated in this law in the case of special elections:*

26.3.1. *full-time government employee;*

26.3.2. *executive officer of the public service office;*

26.3.3. *head, deputy head, director, deputy director of a legal entity owned by the state or local, or with the participation of state or local property;*

26.3.4. *Full-time and part-time members of joint management organizations established by the government.*

26.4. *It is prohibited to nominate a member of one party from another party, or in case of joint parties, a member of another party from the coalition.*

26.5. *A person who has been convicted of a criminal offense by a valid court decision is prohibited from running for office.*

26.6. *Nomination is prohibited if the commission of corruption or official crime has been established by a valid judgment of the court.*

#### Article 28. Registration of candidates

28.1. *The general election committee shall register the candidate and issue an identity card.*

28.2. *The nominated party or alliance shall submit the following documents to the General Election Committee within three days after the expiration of the period prescribed by law for the nomination process:*

28.2.1. *decision of the meeting on nomination;*

28.2.2. *written consent of the candidate;*

28.2.3. *description of the anti-corruption office on receipt of the candidate's assets and income declaration;*

28.2.4. *a copy of the decision on dismissal from work or position in the case of an official specified in Article 26.3 of this law;*

28.2.5. *inquiry of the Supreme Court of the State regarding whether the candidate meets the requirements specified in Article 26.2.1 of this law;*

28.2.6. *determination of the General Directorate of Taxation on whether the candidates meet the requirements specified in Article 26.2.2 of this law;*

28.2.7. *biography of the candidate;*

28.2.8. *a copy of the candidate's identity card;*

28.2.9. *birth certificate / if there is no birth certificate, archival reference proving that he is a native citizen of Mongolia/;*

28.2.10. *identification of the border protection organization about permanent residence in the country for at least the last five years;*

28.2.11. *identity card or equivalent document proving that the candidate's parents are citizens of Mongolia;*



28.2.12. *the election platform and audit opinion reviewed by the higher state audit organization in accordance with this law;*

28.2.13. *opinion of the working group of the central state administrative organization in charge of health issues regarding the candidate's health;*

28.2.14. *rules and agreements of the nominated party and coalition;*

28.2.15. *inquiry of the unit in charge of the database of the General Police Department on whether the requirements specified in Articles 26.5 and 26.6 of this law are met.*

28.3. *The General Election Committee shall approve the forms and models of documents related to candidate registration.*

28.4. *The general election committee shall carefully check the completeness of the candidate's documents upon receiving them, and if the documents are incomplete, they may be compensated within the period specified in this law.*

28.5. *If the General Election Committee deems it necessary, it may collect inquiries about candidates from authorized persons.*

28.6. *The General Election Committee shall issue a resolution on whether to register the candidate's documents within three days after the end of the period for receiving the candidate's documents.*

28.7. *If a decision has been made on the registration of the candidate, the General Election Committee shall issue the candidate's identity card 16 days before the date of voting and inform the public.*

28.8. *After the decision to register as a candidate is made, it is prohibited to refuse a candidate.*

28.9. *The right of the candidate begins with obtaining an identity card and ends with the official results of the vote.*

28.10. *Anti-corruption agency shall post the declaration of assets and income of all candidates registered as candidates on their organization's website 16 days before the date of voting.*

## **Law on Parliamentary Elections**

### **Article 29. General nomination procedure**

29.1. *Parties and alliances registered to participate in the election shall start nomination process 45 days before the date of voting and shall finish within one week.*

29.2. *The process of self-nomination shall be started 45 days before the date of voting and shall be completed within one week.*

29.3. *In addition to the general requirements specified in the law, the candidate must meet the following requirements:*

29.3.1. *to not pay debts to banks, other legal entities, and citizens as determined by the court or arbitration decision;*

29.3.2. *not having overdue tax debts, if owning 51 percent or more shares of a company, then having no overdue tax debts.*

29.4. *If the candidate holds the following jobs and positions, in the case of regular elections, he/she shall be released from his/her job or position before January 1 of the regular election year, or before the beginning of the nomination process specified in this law, in the case of special or by-elections:*

29.4.1. *full-time government employee;*

29.4.2. *executive officer of the public service office;*

29.4.3. *head, deputy head, director, deputy director of a legal entity owned by the state or local, or with the participation of state or local property.*

29.5. *It is prohibited to nominate a member of one party from another party or, in the case of a coalition, a member of a party other than the parties that have joined it.*

29.6. *Candidates are not allowed to run for more than one constituency.*

29.7. *A person who has been convicted of a crime by a valid court decision is not allowed to run for office.*

29.8. *Candidates who have been found guilty of corruption or official crimes are prohibited from running.*

### **Article 32. Registration as a candidate**

32.1. *The general election committee shall register the candidate and issue an identity card.*

32.2. *The nominated party or coalition shall submit the following documents to the General Election Committee within five days after the expiration of the period specified in the law on the nomination process:*

32.2.1. *the decision of the meeting on nominations and the list of names of all candidates;*

32.2.2. *written consent of each candidate;*

32.2.3. *a copy of the decision on dismissal from work or position in the case of an official specified in Article 29.4 of this law;*

32.2.4. *inquiry of the Supreme Court on whether the candidate meets the requirements set forth in Article 29.3.1 of this law;*

32.2.5. *the statement of the state administrative organization in charge of taxation on whether the candidate meets the requirements specified in Article 29.3.2 of this law;*

32.2.6. *biography of the candidate;*

32.2.7. *a copy of the candidate's identity card;*

32.2.8. *inquiry of the unit in charge of the database of the central police organization on whether or not he is serving a sentence;*

32.2.9. *inquiries from the relevant organization on whether they have been found guilty of corruption or official crimes.*

32.3. *The independent candidate shall submit the following documents to the General Election Committee within five days from the date specified in the law on independent nomination:*

32.3.1. *a statement expressing nomination;*

32.3.2. *forms signed by voters;*

32.3.3. *a copy of the decision on dismissal from work or position in the case of an official specified in Article 29.4 of this law;*

32.3.4. *inquiry of the Supreme Court on whether the candidate meets the requirements set forth in Article 29.3.1 of this law;*

32.3.5. *the statement of the state administrative organization in charge of taxation on whether the candidate meets the requirements specified in Article 29.3.2 of this law;*

32.3.6. *biography of the candidate;*

32.3.7. *a copy of the candidate's identity card;*

32.3.8. *names and contact telephone numbers of the parents of two persons representing the independent candidate with the central election organization;*

32.3.9. *election platform and audit opinion of the independent candidate reviewed by the higher state audit organization in accordance with this law;*

32.3.10. inquiry of the unit in charge of the database of the central police organization on whether or not he is serving a sentence;

32.3.11. inquiry of the relevant organization about whether he was found guilty of corruption or official crime.

32.4. The candidate shall submit the declaration of the candidate's assets and income to the Anti-Corruption Agency within three days after the end of the nomination process stipulated in this law. It does not apply to persons who have submitted their declaration of assets and income in accordance with the anti-corruption law.

32.5. The Anti-Corruption Agency shall submit to the General Election Committee within one day after the end of the period specified in Article 32.4 of this Law, the inquiry about whether all candidates have declared their assets and income.

32.6. The General Election Committee shall approve the forms and models of relevant documents related to candidate registration.

32.7. The general election committee shall carefully check the completeness of the candidate's documents upon receiving them, and if the documents are incomplete, they may be compensated within the period specified in this law.

32.8. The General Election Committee may independently check whether the signatures of the voters collected by the candidate are correct or not, meet with the citizen and check it thoroughly.

32.9. If the General Election Committee deems it necessary, it may collect inquiries about candidates from authorized persons.

32.10. The authorized person specified in Article 32.9 of this law is obliged to submit the relevant inquiries and information within the period determined by the General Election Committee.

32.11. The general election committee shall decide whether to register the candidate's documents within five days after receiving them and issue a resolution.

32.12. If a decision is made to register a candidate, the General Election Committee shall issue the candidate's identity card 22 days before the date of voting and inform the public.

32.13. After the decision to register as a candidate is made, it is forbidden to reject the candidate.

32.14. The right of a candidate begins with obtaining an identity card and ends with the official results of the vote.

32.15. In accordance with Article 32.12 of this law, from the day the candidate is issued with an ID card, the Anti-Corruption Agency shall openly upload the declaration of assets and income of all candidates registered as candidates on the electronic information network of their organization.

## **Law on the Election of Citizens' Representative Khurals**

### **Article 28. General nomination procedure**

28.1. Parties and coalitions registered to participate in local assembly elections shall start nomination process 45 days before the polling day and shall be completed within one week.

28.2. The process of self-nomination shall be started 45 days before the date of polling and shall be completed within one week.

28.3. In addition to the general requirements specified in the law, the candidate must meet the following requirements:

28.3.1. *to not pay debts to banks, other legal entities, and citizens as determined by the court or arbitration decision;*

28.3.2. *to have no overdue tax debts, if the company owns 51 percent or more of shares, then the company has no overdue tax debts.*

28.4. *If the candidate holds the following jobs or positions, in the case of regular elections, he was released from his job or position before August 1<sup>st</sup> of the regular election year, and in the case of special, by-elections or re-elections, before the start of the nomination process specified in this law. is:*

28.4.1. *full-time government employee;*

28.4.2. *executive officer of the public service department;*

28.4.3. *chairman, deputy chairman, director, deputy director, chairman and member of the board of directors of state or local ownership, state or local ownership legal entities;*

28.4.4. *Full-time or part-time members of project and program units and joint management organizations established by the government.*

28.5. *It is prohibited to nominate a member of one party from another party or, in the case of a coalition, a member of a party other than the parties that have joined it.*

28.6. *Except as specified in Article 6.5 of this law, a candidate is prohibited from running for more than one constituency.*

28.7. *A person who has committed a crime and is serving a sentence by a valid court decision is prohibited from running as a candidate.*

28.8. *Candidates who have been found guilty of corruption or official crimes are prohibited from running for office.*

### Article 31. Registration of candidates

31.1. *Candidates will be registered by the election committee of that level and issued with an identity card.*

31.2. *Nominated parties and coalitions shall submit the following documents to the election committee of that level within three days after the end of the nomination process stipulated by law:*

31.2.1. *the decision of the meeting on nominations and the list of names of all candidates;*

31.2.2. *written consent of each candidate;*

31.2.3. *a copy of the decision on dismissal from work or position in the case of an official specified in Article 28.4 of this law;*

31.2.4. *inquiry of the Court's decision enforcement body on whether the candidate meets the requirements set forth in Article 28.3.1 of this law;*

31.2.5. *the determination of the state administrative organization responsible for tax issues on whether the candidate meets the requirements specified in Article 28.3.2 of this law;*

31.2.6. *biography of the candidate;*

31.2.7. *a copy of the candidate's identity card;*

31.2.8. *reference to the unit responsible for the database of the central police organization on whether or not they are serving a sentence;*

31.2.9. *candidate's income statement;*

31.2.10. *inquiries from the relevant organization about whether they have been found guilty of corruption or official crimes.*

31.3. *The independent candidate shall submit the following documents to the election committee of that level within three days from the date of completion of the independent nomination process prescribed by law:*

*31.3.1. a statement expressing nomination;*

*31.3.2. forms signed by voters;*

*31.3.3. a copy of the decision on dismissal from work or position in the case of an official specified in Article 28.4 of this law;*

*31.3.4. inquiry of the Court's decision enforcement body on whether the candidate meets the requirements specified in Article 28.3.1 of this law;*

*31.3.5. the determination of the state administrative organization responsible for tax issues on whether the candidate meets the requirements specified in Article 28.3.2 of this law;*

*31.3.6. biography of the candidate;*

*31.3.7. a copy of the candidate's identity card;*

*31.3.8. Names of parents, personal names and contact telephone numbers of two persons who communicate with the central election organization on behalf of the independent candidate;*

*31.3.9. independent candidate's election manifesto and audit opinion reviewed by the higher state audit organization in accordance with this law;*

*31.3.10. inquiry of the unit in charge of the database of the central police organization on whether or not he is serving a sentence;*

*31.3.11. candidate's income statement;*

*31.3.12. inquiries from the relevant organization about whether they have been found guilty of corruption or official crimes.*

*31.4. The General Election Committee shall approve the forms and models of documents related to candidate registration.*

*31.5. When receiving the candidate's documents, the Election Commission will carefully check the completeness of the documents, and if the documents are incomplete, they can be compensated within the period specified in this law.*

*31.6. The election committee will independently check whether the signatures of the voters collected by the candidate are correct by sampling and meeting with the citizen.*

*31.7. If the Election Commission deems it necessary, it may collect inquiries about the candidate from authorized persons.*

*31.8. The authorized person specified in Article 31.7 of this law is obliged to submit the relevant inquiries and information within the period determined by the election committee.*

*31.9. The Election Committee shall issue a resolution on whether to register the candidate's documents within a week after receiving them.*

*31.10. If a decision is made to register a candidate, the election committee of that level shall issue the candidate's identity card at least 15 days before the date of voting and publicize it.*

*31.11. After the decision to register as a candidate is made, it is forbidden to refuse a candidate.*

*31.12. The right of the candidate begins with the receipt of an identity card and ends with the official results of the vote.*

There are no definite criteria for the rest of the politically appointed positions as they are positions related to political appointment, not an election. For instance, the advisors are appointed by the respective employer, while the governor of the aimag is elected by the Citizens' Representative Khural members of that aimag.

## Examples of implementation

The General Election Commission of Mongolia has registered and furnished the confirmation to candidates of 13 political parties and 4 coalitions before the Parliamentary Election 2020 campaign. The election campaign started with 121 independent candidates (19.9 percent) and 151 female candidates (24.9 percent) out of 606 candidates. Of which, the following parties had nominated its candidates: the Mongolian People's Party - 76, Democratic Party - 76, Mongolian Green Party – 15, Our Coalition – 74, NEW Coalition – 72, Right Person Electorate Coalition – 53, People's Party, United Party of the Patriots, Love the People Party, Great Unity Party – 1 per each, Freedom Implementing Party – 13, Development Program Party – 7, Comply! 19 of the Constitution Coalition – 34, Folk's Party – 30, Mongolians of the World Party – 3, People's Majority Governance Party – 24, Ger District Development Party – 4.

It was confirmed that 1 million 475 thousand and 780 (73.6 percent) voters participated in the Parliamentary Election 2020 out of 2 million 3 thousand 969 eligible voters.

As a result of the election that was held in June of 2020, the following parties, coalition and individual candidates were elected in the Parliament: the Mongolian People's Party – 62, Democratic Party – 11, Our Coalition – 1, Right Person Electorate Coalition – 1, Independent candidate – 1.

The composition of the group elected in the Parliament is as follows: 38 (50 percent) members are elected for the first time in the Parliament; 13 (17.1 percent) are females; the oldest member is aged 66 whereas the youngest is 33. The profession of new members of the Parliament are as follows: Lawyer – 14 (18.42 percent), economist - 21 (27.63 percent), engineer and agronomist – 12 (15.79 percent), politician, social scientist, artist, writer – 14 (18.42 percent), physician and teacher – 9 (11.84 percent), other – 6 (7.89 percent).

The Administrative Court of Appeals reviewed 6 lawsuits against the General Election Commission's decision to deny confirmation to persons based on grounds such as insufficient filing of documentation and/or disqualification on the basis of references issued by other organizations showcasing failure to meet mandatory requirements for candidacy set by law even though those persons submitted their applications and supporting materials on time with a view to obtaining General Election Commission's approval to participate in the election.

### *(b) Observations on the implementation of the article*

The Law on Presidential Elections, the Law on Parliamentary Elections and the Law on the Election of Citizens' Representative Khurals (regional parliaments) describe the rights and modalities relating to both active and passive participation in elections. Aspiring candidates who have previously been convicted of corruption offences cannot be registered to run for office (art. 26.6 of the Law on Presidential Elections; art. 29.8 of the Law on Parliamentary Elections; art. 28.8 of the Law on the Election of Citizens' Representative Khurals).

### *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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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 Khural, 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.

The National Anti-Corruption Strategy contains provisions on enabling 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 a 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 not to receive any illegal financing, to publish a report on election campaign funding and to disclose audit evaluation of its financial reports, and to implement respective regulations in the law effectively;
- to establish a system to enable independent monitoring of the financial statement of political parties that have seats in Parliament and to inform the 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 conditions in which the political parties that do not have seats in the Parliament have the opportunity to develop and not be influenced by interested parties in terms of financing;

- to improve the laws on elections and Law on Political Parties;
- to establish a system for monitoring assets and incomes of managerial-level officials of political parties;
- to create a legal framework for social interest groups and citizens to participate, influence or lobby in the State policy and decision-making process;
- to increase the participation of citizens and civil society organizations in activities to raise political accountability and improve transparency.

### Political Party financing

Political party financing is primarily regulated by the Law on Political Parties adopted in 2005, and the laws on elections regulate the financing of election campaigns.<sup>18</sup>

Mongolia is working on improving its legal framework for political party financing and financing of candidature. Two separate working groups are established on new package laws on improving the regulations on election campaigns and laws on political parties.

Political party financing consists of two types: election-year party financing and party financing in other years. Any financing made in the election year is regulated by the Law on Parliamentary Elections. In contrast, the law that regulates political party financing conducted in years other than election year is the Law on Political Parties, and the matter relating to the financing is not subject to General Election Commission.

The General Election Commission was a member of the working group which was tasked to draw up draft laws, and the following proposals made by the Commission using relevant OECD recommendations are introduced in the Law on Parliamentary Election, Law on Presidential Elections and Law on Election of Citizens' Representative Khural of Aimag, the Capital, Soum and District.

The General Election Commission (Commission) proposed to introduce the following two provisions that say "The State Central Audit Body, when determining election expenditure of candidates, parties and coalitions, shall consider the size of the territory of the election district, location, number of population and households and other requirements stated in this law", and "The State Central Audit Body shall determine the ceiling of election campaign expenditure to be spent by the candidates, parties and coalitions before April 1 of the election year, and report the ceilings to the public".

The aforementioned proposals incorporated in Law on Parliamentary Elections as follows:

*50.1. The state audit high authority shall set the maximum amount of election expenses by the method indicated in Article 50.2 of this law for a party, coalition, and candidate before March 1<sup>st</sup> of an election year and announce it publicly.*

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<sup>18</sup> Developments after the Country visit, as reported by Mongolia: In order to improve the law and legal framework for political parties and to make the financing of political parties transparent and open, the revised draft of the Law on Political Parties was drafted by the President of Mongolia and submitted to the Parliament for approval.



*50.2.State central audit authority, jointly with the General Election Commission and the General Auditor of Mongolia, shall set the maximum amount of election expenses for a party, coalition, and candidate in consideration of the size of the territory, location, number of households and voters and other requirements set forth in this Law.*

The Commission also proposed the following: "the value of non-monetary donation shall be determined by contract based on the average market rate, and it shall not exceed the ceiling set for donations to be given by natural and legal persons."

*Paragraph 55.4 of Article 55 of Law on Parliamentary Elections stipulates that "The price of the in-kind donation shall be established based on the average market price and agree in donation agreement and the price shall not exceed the maximum amount of donation to be made by a citizen or legal entity."*

The Commission also decided that receiving cash as a donation, which is one of the three main sources of election campaign expenditure, deteriorates the transparency and integrity of election campaign financing. Thus, the Commission proposed prohibiting giving and receiving cash donations and requiring natural persons to indicate the source of the donation. Furthermore, the proposal required the legal persons to include the donation in its financial reports. The Commission considered that such provisions would tighten the responsibility of the donation giver and ensure the rightness and accuracy of information recorded in the report on donation.

*Paragraph 54.4 of the Law on Parliamentary Elections reads: "54.4. A citizen or a legal entity making a donation must write his/her name or its state registration number and the source of income on the bank slip, and the donation receiver shall transfer back the donations that do not meet this requirement."*

## **Law on Parliamentary Elections**

### **Article 50. Maximum amount of election expenses**

*50.1. The supreme state audit body shall determine the maximum amount of election expenditure by parties, coalitions and candidates before March 1<sup>st</sup> of the regular election year in accordance with the methodology specified in Article 50.2 of this law and shall inform the public.*

*50.2. When determining the maximum amount of expenditures for elections by parties, coalitions, and candidates, the Supreme State Auditing Organization shall jointly approve the General Election Committee and the Auditor General of Mongolia, taking into account the size of the territory, location, number of households and voters, and other requirements specified in this law.*

*50.3. The maximum amount of expenses set in accordance with Article 50.1 of this law shall be applied until the next regular election, and if changes are necessary, they shall be determined and publicized in accordance with this law within 30 days after the decision to schedule a supplementary or special election.*

### **Article 57. Election expenses report**

*57.1. Income and expenditure information shall be fully reflected in the election expenditure report.*

*57.2. The election expense report is a financial report of monetary and non-monetary assets.*

57.3. *Within 45 days from the day of polling, parties and coalitions, and within 30 days from the day of polling for candidates, a private audit legal entity shall draw up an opinion on the expense report and submit it to the highest state audit institution.*

57.4. *The expense report shall be issued with the following indicators:*

57.4.1. *the total amount of income included in the election expense account for each source of capital and transaction specified in Article 49.2 of this law;*

57.4.2. *information specified in Article 54.4 of this Law and the amount and form of donation of the donor citizen or legal entity;*

57.4.3. *expenditure categories, performance, and contracts;*

57.4.4. *balance amount and location;*

57.4.5. *the amount of funds before spending from the election expenses account.*

57.5. *The director of the bank where the election expenses account is placed, or the head of the branch, shall issue a statement of all transactions of the account and submit it to the supreme state audit institution within 30 days from the date of the election.*

#### Article 58. Control and openness and transparency of election expenditure reports

58.1. *The Supreme State Audit Organization shall review the expenditure report within 60 days from the date of receipt and make the results public.*

58.2. *The Supreme State Audit Organization shall exercise the following rights and obligations regarding the election expenditure report:*

58.2.1. *monitor donations, financing, and expenditures received by parties, coalitions, and candidates, either individually or jointly with other government organizations;*

58.2.2. *obtaining information related to election financing from parties, alliances, and candidates;*

58.2.3. *to prepare and prepare documents and deliver them to the relevant authorities regarding violations of election funding and spending;*

58.2.4. *collect documents related to election financing from state and other organizations, officials and citizens;*

58.2.5. *Approving procedures and forms related to issuing, receiving, publicizing and presenting expense reports.*

58.3. *The Supreme State Audit Organization shall publish the information specified in Articles 26.3.6, 26.4.6, and 38.5 of this Law from the date of completion of the verdict, and from the day of receiving the information specified in Article 58.4, on the website of its organization, and shall allow the public to freely access it.*

58.4. *Candidates, parties, and alliances shall publicly inform the public about the progress of spending of donations and election expenses three days before the day of polling, and submit them to the highest state audit organization.*

58.5. *In case the Supreme State Audit Organization requests information and documents in accordance with the mandate stipulated in Article 58.2 of this Law, the relevant citizens and legal entities are obliged to provide information and documents.*

The fact that 60 percent of the total income received by the political parties for a cycle of 4 years from the election year to the next election year is generated within 12 months before the election date shows the main constituent of the political party financing is the election campaign income. Thus, the Commission decided that requiring the political parties to submit the financial reports for

the election year and the previous year to the State Central Audit Body for review and comment and the making decisions to allow the political party to run in an election based on that review and comment would raise the responsibility and improve the transparency of political party financing.

The paragraph 26.3.6 of Article 26 of the current Law on Parliamentary Elections provides that “a report of the statement(s) on donations made by citizens and legal entities to the party from March 1<sup>st</sup> of a regular election year to January 1<sup>st</sup> of the previous year and the previous annual statement/report for non-regular and by-elections reviewed and certified by the state audit authority”.

Furthermore Paragraph 38.7 of Article 38 of the Law on Parliamentary Elections reads: “Political party, coalition and the independent candidate shall deliver its donation report as indicated in Article 26.3.6 and 26.4.6 of this law to the state audit high authority for assessment within the first week of April of a regular election year”.

As mentioned, the methodology and indicators for working out the election campaign expenditure report were vague. Furthermore, the fact that the report in question is delivered 45 days after the polling date makes the reporting insignificant to voters. The Commission, therefore, proposed to clarify the methodology and indicators used for preparing the report and required early delivery of the report to provide the voters with the information necessary to make decisions. The proposal was developed using the final report issued by OSCE on observation of the 2016 Parliamentary election and recommendations generated during the discussion with NGOs.

Furthermore, the Commission considered that it was imperative to introduce a provision requiring IAAC to disclose the asset and income of candidates, thus ensuring transparency of assets and income of candidates and helping the voters to make a decision at the polling center.

The above proposal was incorporated in Articles 11 and 14 of the Anti-Corruption Law, respectively, as follows:

14.1.22. The candidate for the President of Mongolia and a member of the State Great Khural.”

11.2. The Independent Authority Against Corruption shall register and store candidates' income and assets declarations in the elections of the President of Mongolia and the State Great Khural.

The Commission also submitted its proposals targeted at reducing corruption campaign expenses. For instance, the law doesn't restrict the number of campaign banners and fliers to be used in elections, thus increasing disparity among candidates and unnecessary expenditure of election campaigns. In addition, voters in Mongolia uses social media heavily and are considered to be a leader among other Asian countries. The Commission realized that building the technical and legal framework for election campaigns on social media platforms was imperative. Therefore, the Commission met with representatives of Facebook Inc on three occasions and drew up a proposal for streamlining the provisions regulating the election campaign on social media platforms. The proposal also served a double purpose of reducing the election campaign expenditure.

With the above proposals embedded within the Law on Parliamentary Elections, Law on Presidential Elections and Law on Election of Citizens' Representatives Khural of Aimag, the Capital, Soum and District were promulgated, which significantly improved the transparency of

political party financing and availability of information for voters.

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

According to the law, political parties have the following rights to:

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

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

According to the current Law on Political Parties, a 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 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. The rules of each party should define the amount of the membership fee, and there are no restrictions regarding the maximum amount.

The Law on Political Parties establishes caps on private donations. The maximum amount of a one-time donation for a legal entity is MNT 10 million (about EUR 4,000), and for a natural person, MNT 1 million (EUR 400). A donor is allowed to donate to one party organization not more than two times a year. All parties shall publish information about their 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 the address specified; legal entities that have bankrupted or have expired bank loans; other persons forbidden so by law. Exclusion of international organizations and foreign legal entities does not cover sponsorship of projects, events in co-operation with international organizations, other foreign political organizations, or 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 is otherwise under the control of the party.

All parties are required to publish information about their donations.

## **Law on Political Parties**

### Article 18. Membership tax, donation

*18.1. Member shall be able to donate to the party by an amount defined by rules of the party.*

*18.2. Members, supporters shall be able to donate to the party through concepts and faiths. Donation shall be received through the bank account of corresponding level of organization only.*

*18.3. The maximum amount of donation for legal entity is ten million, for person is one million tugrug for one time and donator is allowed to give donation to one organization of the party for no more than two times a year. It is forbidden to seek for personal interest, position and to oppress due to donation.*

*18.4. Party shall publish about its donations. [...]*

The maximum amount of the membership fee should be defined in the Law on Political Parties so that membership fees are not used to circumvent donation restrictions.

Prohibition of donations from public organizations 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, and 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., a certain percent 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 at MNT 1,000 (0,354 EUR). The party with seats in the parliament also receives a 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 on the parliamentary election unit areas.

Only parliamentary parties (those that passed the 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 in one bank account, and direct cash donations are not allowed. The Law on Political Parties requires the party's central organization to prepare a consolidated financial statement after the corresponding organizations have made the financial report. The party's finances should be audited annually, and reports should be published. The Supreme Court of Mongolia is in charge of controlling the internal rules and platform of the party concerning their compliance with the Constitution and the law.

Following the adoption of the Law on Parliamentary Election, Law on Presidential Elections and Law on Election of Representatives' Khural of Aimag, the Capital, Soum and District, the respective provisions aimed at protecting the implementation of the above laws, and imposing sanctions to those who failed to disclose financing of election campaign introduced in Law on Infringements. There are a total of 36 infringements relating to the election campaign in the Law. Of which, provisions targeting transparency of election campaign expenditure are as follows:

## **Law on Infringements**

### Article 17.1 Violation of election laws

21. *If the provision of the law regarding registry of election campaign account or receiving income in and sending expending expense out the account has been violated, the natural persons shall be liable for a fine equal to ten thousand units and the legal persons shall be liable for a fine equal to ten thousand units.*

22. *If the donation was given to political party, coalition or candidate has exceeded the amount stated in the law or the donation was given to the coalition concurrently where the political party is included in that coalition, the illicit donation shall be subject to confiscation and the natural persons shall be liable for a fine equal to ten thousand units whereas the legal persons shall be liable for a fine equal to one hundred thousand units.*

23. *If the donation from persons prohibited to give donation haven't sent back to the owner, the illicit donation shall be subject to confiscation and the natural persons shall be viable for a fine equal to ten thousand units whereas the legal persons shall e viable for a fine equal to one hundred thousand units.*

24. *If the provisions of the law regarding in-kind donations have been violated, the illicit proceed shall be subject to confiscation and the natural persons shall be viable for a fine equal to ten thousand units whereas the legal persons shall be viable for a fine equal to one hundred thousand units.*

25. *If the party, coalition or candidate failed to follow the statutory duty regarding the timely submission of expenditure report on election campaign to the state audit body, the natural persons shall be viable for a fine equal to ten thousand units whereas the legal persons shall be viable for a fine equal to one hundred thousand units.*

26. *If the bank administering the accounts of party, coalition or candidate failed to follow the statutory duty regarding the submission of account statement to the state audit body within 30 days after the polling day, the natural persons shall be viable for a fine equal to four thousand units and the legal persons shall be viable for a fine equal to forty thousand units.*

27. *If the party, coalition or candidate failed to disclose progress report of donations and expenditure report to the public and submit to the State Audit Body 3 days prior to the polling date, the natural persons shall be viable for a fine equal to twenty thousand units and the legal persons shall be viable for a fine equal to two hundred thousand units.*

In addition to introducing the aforementioned sanctions in the Law on Infringements, the respective amendments were made in the Law on Infringement Proceeding, which built a framework to allow the competent inspection officers such as tax inspector, supervisor of Mongolbank and supervisors of Financial Regulatory Commission, other competent self-regulatory bodies and state inspector of accounting to conduct legal proceedings.

A total of 170 candidates who participated in the 2020 Parliamentary Election and 2020 Election of Representatives' Khural of Aimags, the Capital, Soums and Districts, and violated the provisions regarding the transparency and disclosure of election campaign expenses were inspected, and as a result, 47 candidates were fined for a combined amount of 660,000 tugriks.

### **Examples of implementation**

According to the Expenditure Report of Candidates of Parliamentary Election 2020 issued by the National Audit Office, a total of 606 candidates were confirmed to run for the Parliamentary election, of which 485 candidates were from 17 political parties/coalitions and 121 candidates were nominated independently. The bank accounts of 469 candidates who have submitted their Expenditure Reports had reported deposits of MNT66,778.2 million, a withdrawal of MNT67,260.0 million, the residue of MNT855.9, the unpaid debt of MNT1,337.7 million.

In total, 836 legal entities and 22,149 individuals paid MNT11,236.3 million and MNT34,735.9 million as donations to election candidates, respectively.

The minimum and maximum expenditures specified by Order No A/23 of 28 February 2020 issued by the Auditor General of Mongolia is from MNT360.4 million to MNT775.5 million. 2 candidates' total campaign expenditure exceeded the ceiling above by MNT48.8 million.

Paragraph 57.3 of Article 57 of Law on Parliamentary Elections states that 436 candidates submitted their Expenditure reports to the National Audit Office at a specified time; 33 submitted later than the specified time; 137 failed to submit altogether.

From 469 reports of candidates, 427 reports were approved by the private audit body, whereas 42 were not approved by the private audit body, of which 36 were X reports which failed to include income and expenditure figures.

As specified by Paragraph 51.4 of Article 51 of the Law on Parliamentary Elections, 515 candidates informed the National Audit Office of the bank details and accounts of campaign expenditure, whereas 91 candidates failed to do so.

As provided by Paragraph 58.4 of Article 58 of the Law on Parliamentary Elections, 492 candidates submitted to National Audit Office the progress reports of campaign expenditure, while 114 candidates failed to do so.

Out of the total income of MNT 66,778.3 million reported in campaign expenditure reports issued by the candidates, MNT65,192.3 million were donated in cash, whereas MNT1,585.9 million were donated in the shape of other assets.

Income type	Income /in million MNT/				Total	
	Quantity	Pecuniary	Quantity	Non-pecuniary	Quantity	Total
Monetary assets donated by political parties and coalitions	3	36.6			3	36.6
Asset contributed by candidates	267	20,769.4			267	20,769.4
Donations from legal entities	760	10,534.3	102	702.0	862	11,236.3
Donations from individuals	21401	33,852.0	688	883.9	22089	34,735.9
Total	22431	65,192.3	790	1,585.9	23221	66,778.2

Of MNT67,259.9 million spent during the election campaign by the candidates, MNT64,258.1

million were spent on election campaign items and 3,001.8 million on other items.

Classification of expenditure		Amount /in million MNT/	
Total		67,259.9	
2.1	Total amount of campaign expenditure	64,258.1	
	2.1.1	Printing and disseminating promotional materials	10,168.5
	2.1.2	Placing promotional boards on streets and public spaces	1.960.5
	2.1.3	Placing party flag in public spaces, using logo and watchwords	686.9
	2.1.4	Organizing meeting, conference and gathering with voters	1,861.6
	2.1.5	Management cost of body in charge of campaign	44,180.6
	2.1.6	Cost of TVs and radio hours	2,785.2
	2.1.7	Cost of internet promotion	1,633.2
	2.1.8	Cost of promotional materials published in daily newspapers and journals	981.7
2.2	Total amount of other expenditures	3,001.8	

The expenditure reports of candidates provide a debt of MNT 1,337.7 million pending to be paid to employees as an incentive for food purchases, rent fees, printing promotional materials etc.

Out of a donation of MNT5,609.0 million deposited by 5441 persons and legal entities that the candidates reported as illegal contributions due to incomplete details and anonymity issues such as missing name, registration number of natural and legal persons and/or source, a donation of MNT5,179.7 million paid by 3591 natural and legal persons were returned, MNT20.2 million paid by 1036 natural and legal persons were transferred to the state treasury, the candidates disbursed MNT409.1 million paid by 814 natural and legal persons.

Private audit entities inspected and approved the expenditure reports according to the rule on “Guidance and methodology of reporting campaign expenditure” adopted by order No A/55 of 12 June 2020 issued by the Auditor General of Mongolia. As a result of re-scrutinizing those expenditure reports by the National Audit Office, it detected and corrected the errors equal to MNT638.8 million.

The audited report of the election expenditure revealed violations equal to MNT2,010.4 million in total. Particularly:

- the amount of expenditures that exceeded the ceiling placed on candidates per voting district: MNT48.8 million
- failure to attest the one’s own source of asset: MNT44.7 million
- raised one’s own source of the asset by loan: MNT196.0 million
- failure to disburse one’s own asset from the designated campaign account: MNT1,287.1 million
- the amount of monetary donations by individuals exceeded the ceiling specified by law:



- MNT44.8 million
- the amount of monetary donations by legal entities exceeded the ceiling specified by law: MNT6.2 million
- failure to establish agreements when receiving the non-monetary donations: MNT0.5 million
- failure to spend campaign funds for its designated purpose: MNT0.2 million
- amount of illegal donations spent: MNT409.1 million

As specified in Paragraph 57.5 of Article 57 of the Law on Parliamentary Elections, the following banks failed to submit the account statements of two candidates:

- Khan Bank
- Credit Bank.

The National Audit Office concluded that out of 427 campaign expenditure reports of candidates of the 2020 Parliamentary Elections that were approved by the private audit bodies, 409 reports were recorded truthfully and comprehensively, whereas 18 reports were recorded untruthfully and incomprehensively.

*(b) Observations on the implementation of the article*

Political party financing in election years is regulated by the Law on Parliamentary Elections, whereas financing in other years is governed by the Law on Political Parties. All parties are required to publish information about their donations (art. 18.4 of the Law on Political Parties). For parliamentary elections, the State Audit High Authority sets the maximum amount of election expenses (art. 50 of the Law on Parliamentary Elections) and reviews and publishes election expense reports, which reflect both income and expenses (arts. 57 and 58 of the Law on Parliamentary Elections).

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

To establish, maintain and strengthen a system that promotes transparency and prevents conflicts of interest, Mongolia has adopted the Law on Regulation of Private Interest and Prevention of Conflict of Interest in the Public Sector.

The Law was adopted in January 2012 and enforced in May 2012. The purpose of this Law is to

ensure the civil service's transparency and credibility by strengthening the alignment of public service activities with public interest through the prevention and resolution of conflicts between private interests and the official duties of a public official.

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

This Law applies to the following officials:

- Persons who hold executive or managerial positions 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 authorized 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;
- Chairpersons and representatives from all levels of Citizens' Representative Khural; and
- Public officials included in the list approved by an authorized entity;
- The competent official and member of the supervisory board of Future Heritage Fund Corporation as specified in Article 4.1.7 of the Law on Future Heritage Foundation.

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

- Prohibition related to the use of official information;
- Prohibitions and restrictions on holding bank accounts, owning movable or immovable assets or establishing legal entities in offshore jurisdictions;
- 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, a salary of a member of the Parliament who performs duties of a Cabinet member etc.

The law further specifies that persons subject to this law shall file their private interest declarations to the competent authority (the IAAC) and provides a procedure for registering, keeping, disclosing,

and verifying private interest declarations.

The IAAC monitors, in general, the implementation of the legislation on the regulation of public and private interests and prevention of conflict of interest in public service, and the Standing Committee on Legal Affairs of the State Great Khural is in charge of monitoring the activities of the IAAC.

*Please also see information provided under articles 5(1), 5(2) and 5(3) of the Convention.*

## **Examples of implementation**

### Case 1.

IAAC discovered that the state investigator of the Veterinary Hospital of the Bulgan aimag, when drawing up the vaccine allocation scheme in March 2021, delivered 26,253 doses of vaccines to the company owned by his related person, spouse. In delivering the vaccines, the state investigator failed to submit the report on the occurrence of a conflict of interest, which was a clear violation of the obligation contained in Paragraph 8.6 of Article 8 of the Conflict of Interest Law:

*8.6. 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.*

Upon uncovering the issue, IAAC advised the head of the Veterinary Hospital of the Bulgan aimag to apply the sanction stated in Paragraph 29.2.2 of Article 29 of the Conflict of Interest Law. In response to the advise, the Head of the Veterinary Hospital decreased the salary of the state investigator by 30 percent for one month, as stated in Paragraph 29.2.2 Article 29 of the Conflict of Interest Law:

*29.2.2. a 30 percent decrease of the monthly pay for a period up to 3 months for violation of the restrictions specified in clause 13, failure to fulfill the responsibilities specified in clauses 8.1, 8.2, 8.3, 9.1, 19.1, 21.3, 21.4 and repeated failure to comply with the submission date specified in clause 23.3 of this law for private interest declaration;*

### Case 2.

In March 2021, the executive director of the locally owned enterprise of Khan-Uul district of Ulaanbaatar city appointed his related person, the sibling, as a repair person. Also, in July 2021, the executive director transferred the same related person to the driver's position, which clearly violated Paragraphs 11.1 and 8.2 of the Conflict of Interest Law:

*8.2. 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.*

*11.1. An official shall be prohibited from issuing administrative acts, perform functions of supervision, audit and inquiry, take punitive measures and participate in the preparation, negotiation and approval of contracts with regard to a common interest person for two years after the termination of for-profit activities established with this person.*

Upon discovering the issue, IAAC advised the Governor of the Khan-Uul district to apply the sanction stated in Paragraph 29.2.2 of Article 29 of the Conflict of Interest Law. In response to the advise, the Governor reprimanded the executive director as stated in Paragraph 29.2.1 of the Conflict of Interest Law.

Statistics on the training of public officials on conflict of interest standards:

	2020	2021
Number of Public officials attended the training on conflict of interest standards	800	1405

Statistics on resignations, recusals, assignments or other measures required/taken to avoid conflicts of interest

	2020	2021
Total reviewed Preliminary Private Interest Declaration	13030	12468
Of which:		
Violation not found	11164	11162
Violation found	8	22
Violation not found, but with warning*	849	1018
Returned**	489	266

\* During the review process, IAAC might discover the mismatch between the candidate's background and/or experience and the job description. In this case, IAAC informs the employer about this discrepancy.

\*\* One of the following instances constitutes the ground for returning the Preliminary Private Interest Declaration:

- not submitted by the competent official;
- incomplete documentation;
- the candidate who is not subject to declaration;
- declaration submitted before the appointment;
- failed to submit e-Preliminary Private Interest Declaration.

*(b) Observations on the implementation of the article*

Officials are also obliged to declare possible conflicts of interest before taking part in any administrative decision with financial or legal implications (art. 8.1 of the Conflicts of Interest Law). IAAC screens asset and income and private interest declarations to identify possible conflicts of interests prior to a person being appointed. Public officials are prohibited from accepting gifts in the performance of their official duties (art. 16 of the Law). Furthermore, they are not allowed to concurrently hold any job or position other than those allowed by the Conflicts of Interest Law (art. 18), and they cannot engage in business activities or work in the management structure of an enterprise, except in a limited number of cases as outlined in the Conflicts of Interest Law (art. 20).

## Article 8. Codes of conduct for public officials

### *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.*

### *(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

The Civil Service Law provides detailed procedures for selecting, appointing and promoting the public official, including the exam content.

Article 75 of the Law on Civil Service specifies the settlement procedure for disputes regarding the violation of rights of core civil servants 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 the candidate for the public position concerning violation of the 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 a decision to open a dispute case within 7 days after the complaint is 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 is opened, the dispute review committee under the central civil service authority shall exercise the following functions:

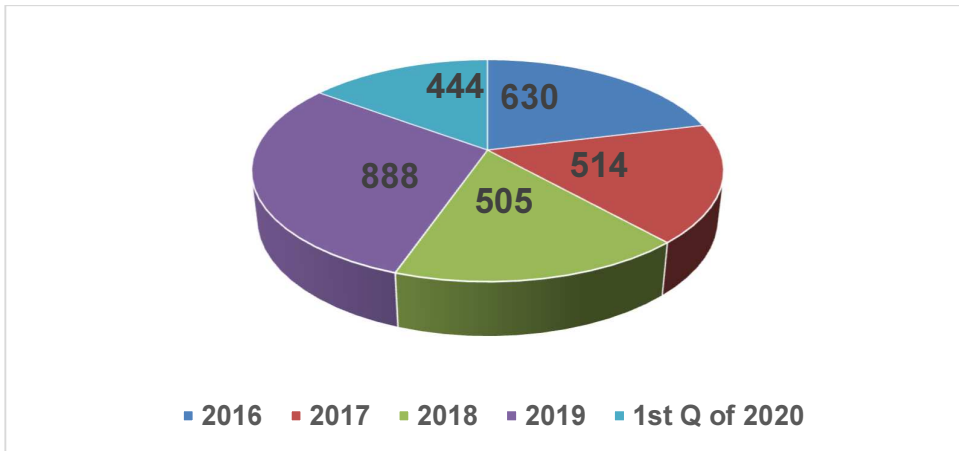
- inquire explanations from related persons;
- deploy specialists within the inspection work based on the consent of relevant institution(s);
- inquire necessary information, statistics, explanations, reference statements and other documents from relevant public and private organizations or officials 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, verdicts, 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 to inspect 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 Paragraph 1d of Article 7 for further details.

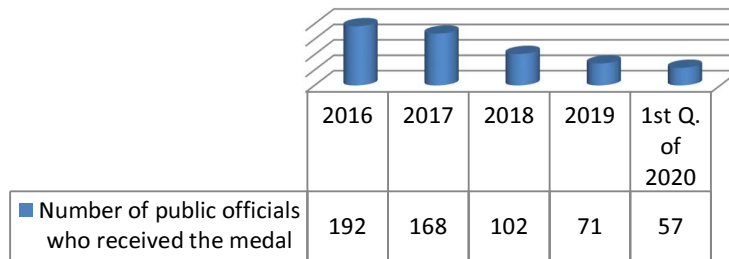
On average, the citizens and civil servants submitted approximately 550 petitions and complaints through the years 2016, 2017 and 2018, whereas in 2019 and as of the first quarter of 2020, approximately 900 and 450 petitions and complaints were received by the Civil Service Council respectively. The amount of complaints and petitions received has increased by 61 percent in 2019 compared to the average of the previous years.



Year	Number of civil servants entering the public service first, second etc. time, i.e. number of employed public officials.
2015	1089
2016	766
2017	772
2018	1848
Total	4475

In order to incentivize and promote integrity, honesty and responsibility among public officials, the Civil Service Council awards the Medal of Leading Staff of the Public Service to public officials working in all levels of public organizations. The requirement and awarding of such medals are regulated by a bylaw adopted by the Decree No 71 of 2013 issued by the Civil Service Council itself. Paragraph 3.5 of the bylaw states that “the medal shall be given on the occasion of state anniversary, accomplishment and in other cases once in half-year period by decision of the Council in accordance with the appropriate bylaw. The medal was given to 595 public officials from 2016 to the first quarter of 2020.

## Number of public officials received the medal



### *(b) Observations on the implementation of the article*

Mongolia has implemented certain measures to promote integrity, honesty and responsibility among its public officials.

### *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.

### *(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Before the enforcement of the new Civil Service Law in 2019, public organizations adopted and enforced their codes of conducts separately based on the example code of conduct adopted by the Government. Also, officials pertaining to public support service (one of the four public position classes 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 of public administration and public support services have followed the uniform code of conduct. Also, the model code of conduct of the officials pertaining to politically appointed and state special service shall be established by Law. This was specified in Article 40 of the Civil Service Law in the following way:

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

As a result, the “Code of Conduct of Officials of Administrative and Support Service” was adopted by Decree No. 33 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 to by the public officials in question:

- Adhere to 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 the code of statehood and 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 the 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 services further extend the norms mentioned above in detail.

The code of conduct of administrative and support service officials specifies two ethical sanctions: oblige to apologize and reprimand. Also, according to the code of conduct, the dismissal on a voluntary ground is considered 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.

## **Code of Conduct of Officials of Administrative and Support Service**

### Two. Ethical standards of civil servants

*2.1. Civil servants shall observe the following ethical standards in their activities:*

*2.1.1. express and uphold the principle of respect for the rule of law guaranteed by the Constitution and other laws in their opinions, morals, words and actions;*

*2.1.2. respecting justice and being free from conflict of personal interests;*

*2.1.3. cherish the tradition of statehood, history, and culture, respect human dignity, honor, rights, and legitimate interests;*

*2.1.4. serve the people wholeheartedly and honor the reputation of public service;*

*2.1.5. is responsible for failure to properly fulfill official duties;*

*2.1.6. in performing his official duties, he is politically neutral and free from any influence of political parties, coalitions, or movements;*

### Four. Liability for violation of ethical standards

*4.1. Ethical violations are acts or omissions of civil servants that violate the ethical norms.*

*4.2. Civil servants who violate the ethical standards of civil servants shall be subject to the following ethical responsibilities, taking into account the nature of the violation:*



4.2.1. *oblige to apologize;*

4.2.2. *remind;*

4.3. *Voluntary resignation of a civil servant in accordance with Article 3.1.5.b of this rule shall be considered ethical responsibility.*

4.4. *If the violation of the ethical norms of the civil servant is a disciplinary or administrative offense or a criminal offense, he will be charged according to the relevant law.*

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 groups.

Before adopting the new Civil Service Law and the Code of Conduct of administrative and support service officials, the working group in charge of the development of this law conducted numerous research, discussions and on-site visits to prepare the draft documents. The main inspirations, examples and good practices are heavily drawn from the legal systems of the USA, Japan, Singapore, and Canada.

In 2019, approximately 1400 public officials from central and local public organizations were trained on issues regarding ethical codes and other related topics. The Civil Service Council also provides technical assistance on ethical issues to government and local institutions.<sup>19</sup>

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<sup>19</sup> Developments after the Country visit, as reported by Mongolia: In order to enact a general law that regulates the ethical issues of civil servants in a unified manner, to establish common ethical standards and requirements for civil servants to observe, and to determine the type of responsibility to be imposed in case of violation, as well as the procedures for dealing with ethical violations, the Parliament of Mongolia approved the Law on the Ethics of Civil Servants on May 4, 2023.

As this law is the primary law regulating the ethical relations of civil servants in public service, it includes the basic regulation of civil servants' ethical relations. The law states that special ethical requirements and norms to be followed in accordance with the characteristics of the branch, profession, and position may be established by other specialized laws and regulations in accordance with this law.

The law defines the following persons as a body in charge of implementation of the laws and regulations regarding ethical relations of civil servants:

- The official of the state and local government who has a power to appoint to the official positions shall be responsible for organizing and supervising the implementation of the law. In this context, he/she has a functions such as creating an environment for maintaining ethics, taking measures to prevent from and raise awareness on ethical violations, establishing and operating an Ethics Council responsible for reviewing ethical violations, and holding employees accountable for committed violations;

- The Ethics Committee under the Civil Service Council is responsible for developing proposals for improving the policy and legal environment of civil servants at the national level, providing unified methodological management, and handling complaints regarding civil servant's ethics under the law.

The jurisdiction of the Ethics Committee under the Civil Service Council and the Council's complaints processing are defined in detail as follows:

- The Council is to handle the ethical issues of an employee appointed by the authorized official of the organization, while the Ethics Committee has jurisdiction over a complaint related to the employee's ethics specified in the law;

- Taking into account the principles of the distribution of state power, the specifics of the legal status of state political and high-ranking officials, as well as the fact that the issues of accountability and termination of powers of officials provided by the Constitution are decided within the framework of constitutional check and balance, ethical issues of the President of Mongolia and the chairman, member of the State Great Khural, Prime Minister, member of the Government, chairman and members of the Constitutional Court, judges of all levels, prosecutors, chairpersons and representatives of all levels of the Parliament are to be regulated by relevant legislation;

- Complaints related to the ethics of members of the Ethics Committee under the Civil Service Council are stipulated to be reviewed by the relevant Standing Committee of the State Great Khural.

*(b) Observations on the implementation of the article*

The Code of Conduct for Officials of Administrative and Support Services was adopted in 2019 (through Decree 33/2019). It lists seven key norms that officials must adhere to, including obligations to be free from influence by political parties, to serve the people wholeheartedly and to honour the reputation of the public service (art. 2.1 of the Code). Violations may result in disciplinary and “ethical” sanctions, such as a reprimand or an obligation to apologize (art. 4.2 of the Code).

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Article 8 of the Anti-Corruption Law obliges public officials to report corruption to the IAAC. It states, "The officials subject to the 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. Implementing 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 Article 33 of the Law, if the official violates the duty to report corruption-related information, he/she shall be punished by the sanction of a reduction of monthly salary by 30 percent for up to three months if the violation is not punishable by other law.

**Anti-Corruption Law**

Article 8. Reporting on Corruption

*8.1. The officials mentioned in provision 4.1. 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.*

*8.2. The implementation of the reporting duty specified in provision 8.1. of this Law shall not be subject to limitations established by the Law on State, Organization's and Personal Secrecy." / This article is reproduced by Amendment Law of 19 January 2012/*

Article 33. Liabilities for Violation of the Legislation on Anti-Corruption

*33.1. If the persons who violated the legislation on anti-corruption are not subject to criminal liability, the competent organizations and officials shall impose the following sanctions:*

*33.1.1. Reduce by 30 per cent the salary for up to three months in case if official did*

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Furthermore, the law provides grounds and procedures for imposing ethical sanctions on civil servants, and the types of punishments for ethical violations. In order to cultivate a culture of self-responsibility, the official is provided with an option to apologize and voluntarily resign from the position.

*not perform the reporting duty as specified in provision 8.1. of this Law;*

*33.1.2. Demote position in case if official failed to perform reporting duty as specified in provision 8.1. of this Law on multiple occasions or violated provision 7.1. of this Law. If it is not possible to downgrade the position, salary shall be reduced by 30 per cent for up to three months. Decision made in corruption-related conditions shall be invalidated;*

*33.1.3. Dismiss from public service the person who violated provision 7.1. of this Law on multiple occasions, invalidate the decision if it was taken in corruption-related conditions;*

*33.2. The judge shall confiscate the assets and income or invalidate the preferential right obtained by the person in violation of provisions 7.1.7. and 7.1.8. of this Law." /This article is reproduced by Amendment Law of 19 January 2012/*

In practice, the IAAC receives corruption-related information from citizens, the 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 are provided below:

Statistics on the 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 in the media were investigated and documented.

### *(b) Observations on the implementation of the article*

Violations of the Code of Conduct can be reported to IAAC, which deals with violations relating to conflicts of interest and corruption (art. 2.10 of IAAC internal decree A/60). If the behaviour is suspected of reaching the level of criminality, the matter is referred to the law enforcement authorities (art. 4.4 of the Code).

Certain officials, such as judges, prosecutors, police officers and central and local administrative officials, are obliged to immediately report to IAAC any corruption-related information obtained while performing their official duties (art. 8 of the Anti-Corruption Law). IAAC maintains a reporting channel for the general public that can also be used by public officials and organizations. A person or entity wishing to report corruption-related information can do so anonymously.

### *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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

The asset disclosure system of Mongolia consists of the following three components: preliminary private interest disclosure, regular private interest and asset and income disclosure, and ad hoc disclosure for stating one's presence/absence of conflict of interest. All disclosures are designed to tackle conflicts of interest in the public sector on different levels.

According to the Anti-Corruption Law (art. 4) and Conflicts of Interest Law, the following public officials are subject to declaring their assets and income declaration and private interest declaration:

- Persons who hold executive or managerial positions in the political, administrative or special office of the State;
- Persons who hold an executive or managerial position in the public service or who is the general or senior accountant at such place;
- Managers or authorized 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;
- Chairpersons and representatives from all levels of Citizens' Representative Khural;
- Public officials who have been included in the list approved by an authorized entity; and
- The competent official and member of the supervisory board of Future Heritage Fund Corporation.

Preliminary private interest disclosure

A candidate for a public position specified in Article 4 of the Anti-Corruption Law must declare his/her private interest preliminary before appointment to the position. The preliminary private interest declaration prepared by a candidate is submitted by the employing institution to IAAC. The Inspection and Analysis Department of IAAC examines the declaration and cross-checks the private interest of a candidate in relation to the official duty and mandate which is attached to that specific vacancy with other data sources such as company registration, shareholder information, bank statement etc. to reveal any risk of conflict of interest between a candidate and a public position. At the end of the examination, IAAC must notify the public institution as to whether the candidate's profile on private interest fits the public position the candidate is seeking to occupy. This process is designed to prevent any occurrence of conflict of interest long before the appointment of a candidate and notifies both parties either to eradicate the factors underlying the conflict of interest or abstain from employing the candidate.

**Table. Number of preliminary private interest declarations received and examined by IAAC in 2020 and 2021.**

	2020	2021
Number of declarations examined	13151	12468
Of which:		
Detected no violation	11684	11162
Detected evident violation	8	22
Warned/Notified	848	1018
Returned	489	266

### Regular private interest and asset and income disclosure

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 IAAC their income and assets declarations within 30 days from appointment or election to office and annually after that by 15 February, reflecting due changes throughout 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 respective bodies as per the system of registration and filing of declaration<sup>20</sup>.

According to Article 23 of the Conflicts of Interest Law, the aforementioned type of officials shall file private interest declarations to the IAAC. 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 his/her public office.

IAAC collects and stores the data relating to the public officials’ assets and income as well as private interest and uses the information for the following purposes:

- IAAC chooses public officials based on some risk factors and inspects for any irregularities. For this purpose, IAAC cross-checks data displayed on the private interest and asset and income declarations of the current year with the previous years. Also, IAAC uses other data sources, such as bank statements, tax payments etc., for its examination;
- IAAC may use the information provided by the private interest and asset and income declarations when inspecting the complaints or reports submitted by a citizen or company.

The table below shows the total number of complaints and reports received by the IAAC for 2020 and 2021, respectively. For instance, in 2021, IAAC received a total of 561 complaints compared to 616 in 2020, a decrease of 55 complaints and reports. In 2021, a total of 90 complaints and reports were inspected. However, as a result of the inspection, 213 complaints and reports were not substantiated and thus were dismissed accordingly.

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<sup>20</sup> It should be noted that not all declarations are subject to IAAC’s review as declarations filed by staff of IAAC fall under the jurisdiction of the Standing Committee on Legal Affairs of the Parliament.

Table. Number of complaints and reports received by IAAC in 2020 and 2021 and its respective measures.

Action		2020	2021
Number of infringements that were established and resolved		73	90
Number of cases where the infringements weren't established and thus dismissed		263	213
Dismissed by the ground stated in the law		31	28
The complainant withdrew his/her complaint/report		5	14
Other			34
Transferred according to the jurisdiction	Transferred for criminal investigation	116	74
	Transferred to other public organization for review	128	108
<b>Total</b>		<b>616</b>	<b>561</b>

### Ad hoc disclosure

According to Article 8 of the Conflicts of Interest Law, an official must declare his/her presence/absence of conflict of interest before making or taking part in any administrative decision involving expenditure or with legal ramifications such as awarding a contract, issuing permits, salary increase, promotion etc. These situations also include performing the functions of supervision, audit and inquiry, taking punitive measures and participating in the preparation, negotiation and approval of contracts.

### **Conflicts of Interest Law**

#### Article 8. Declaration and explanation of a conflict of interest

8.1. *In line with the procedure set out in clause 23.8 of this law, 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.*

8.2. *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.*

8.3. *Other persons who are knowledgeable of a conflict-of-interest situation may report it to the relevant competent body or official.*

8.4. *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.*

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

8.5.1. *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;*

8.5.2. *the duties in question require highly specialized knowledge and skills and only the officer who has declared conflict of interest can meet these requirements.*

8.6. *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.*

8.7. 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 in accordance with clause 8.4 of this law and an absence of such a decision shall mean a confirmation of the non-existence of a conflict of interest.

8.8. An official's statement of non-existence of a conflict of interest referred to in clause 8.1 of this law and his/her explanation referred to in clause 8.6 of this law shall be open to the public.

#### Article 16. Restrictions on Accepting Gifts

16.1. An official shall be prohibited from directly or indirectly accepting gifts in the performance of his/her official duties.

16.2. The restriction set forth in clause 16.1 of this law, shall not apply to gifts accepted by an official not in his/her official capacity or gifts accepted pursuant to diplomatic protocol in the performance of his/her official duties.

16.3. The procedure of accepting, reporting and disposing a diplomatic gift by an official shall be established by the Government.

16.4. An official shall have an obligation to report within 30 days in writing to the competent official the cases where the value of a one-off gift or service received from persons other than his/her family members or relatives exceeds the equivalent of his/her monthly salary or where the value of gifts or services received from a single source in the course of one year exceeds the equivalent of his/her three-monthly salaries.

16.5. If the value of a gift or service received by an official is in excess of his/her six-monthly salaries, the items shall become the property of the State.

16.6. The official may redeem such a gift or service by way of paying the difference in excess of his/her six-monthly salaries.

16.7. A gift shall not be considered external to an official's public office if in relation to the donor the said official has discharged his/her official duties such as issuance of an administrative decisions, performance of supervision, audit, inquiry and/or punitive functions or contract approval in a period of two years prior to the receipt of the gift.

16.8. If an official has accepted a gift from the person referred to in clause 16.4 of this law, he/she shall not discharge official duties such as issuance of administrative decisions, performance of supervision, audit, inquiry and/or punitive functions or contract approval in relation to the said person for a period of two years.

16.9. A public official while acting as a representative of the holder of the State or local government capital share in a capital company and for two years after the completion of this assignment may not accept any gifts from such a company and/or members of its governing or executive bodies.

16.10. The Government shall determine the procedures whereby the gifts accepted by an official and turned over to State property, shall be evaluated, stored and utilized.

16.11. Benefits that are expressed in monetary terms shall be managed in accordance with the procedures referred to in clauses 16.11.10 of this law.

#### Article 18. Restrictions on Holding Concurrent Offices

18.1. A public official may not hold concurrently any employment or office other than those allowed by this law.

18.2. A member of the State Great Khural or Government of Mongolia may concurrently have or hold the following occupations or offices:



- 18.2.1. *offices allowed by law and/or international treaties;*
- 18.2.2. *offices directed at public benefit activities;*
- 18.2.3. *occupations of a teacher, researcher or creative work;*
- 18.2.4. *if allowed by law, other offices in the State Great Khural or the Government;*
- 18.2.5. *if allowed by law, offices in international organizations.*

18.3. *Members of the Constitutional Court, judges of all levels, prosecutors, investigative officers are prohibited from holding concurrent offices or occupations unless sectoral laws specify otherwise.*

18.4. *An armed forces official may perform work or exercise authority under a labour or work-performance contract concluded on the basis of a written permission by a senior official.*

18.5. *Officials other than those referred to in clauses 18.2, 18.3, 18.4 of this law may concurrently hold/perform the following:*

18.5.1. *offices allowed by law, international treaties and Government regulations;*

18.5.2. *work of a teacher, researcher and creative work;*

18.5.3. *other offices, contractual work and obligations if these do not result in conflict of interest and are permitted in writing by senior officials or relevant competent bodies.*

18.6. *An official who is registered with the Tax Authority as a sole proprietor and whose annual income does not exceed 80 times of minimum monthly salary, or engages in vegetable farming for household consumption or derives income from forestry, bee keeping, fishery, animal farming and tourism or other training may combine his/her official duties with these economic activities.*

18.7. *Where a member of the State Great Khural concurrently serves as a Cabinet member, he/she may not be part of an inquiry working group formed by the State Great Khural and may not initiate or propose the establishment of such a working group.*

#### Article 20. Prohibitions Related to Economic Activities

20.1. *Unless otherwise stated in law an official shall be prohibited from engaging in the activities of an economic entity or serving on the management of economic entities other than those specified in clause 18.6 of this law.*

20.2. *President of Mongolia, members of the State Great Khural, Prime Minister, Ministers, members of the Constitutional Court, the President of the Supreme Court, judges of the Supreme Court, Prosecutor General, head of organization responsible for directly reporting its activities to State Great Khural, governors of Aimag and capital city, head of Presidium of Citizens' Representative Khural of Aimag and capital city, secretary of ministries, head of government agencies, person who is/was a director of government owned companies or international organizations and related persons of these public officials shall not be shareholders, stockholders or partners of economic entities or sole proprietors that are recipients of the central and/or local government procurement orders, State financial Resources or State-guaranteed credits, except the cases where these have been granted as a result of open competition.*

20.3. *Officials and their related persons specified in clause 20.2 of this law shall comply with the provision of the same clause also for two years after the said officials have ceased to perform the duties of their public offices.*

20.4. *Officials serving on the governing, control or executive body of a company with central and/or local government ownership shall not obtain income from vendors executing central or local government procurement orders for the said company.*

20.5. *An official shall not be, for two years after he/she has ceased to perform public duty, a shareholder, stockholder or a partner in an economic entity in respect of which he/she had,*



*while in public office, taken decisions on government procurement, allocation of central and/or local government resources and performed supervision, control or punitive functions.*

If the private interest of an official might interfere with the decision he/she is making, the official must declare the issue through the statement of his/her presence/absence of conflict of interest and shall submit the statement to his supervisor. The supervisor with a mandate to employ or dismiss that official shall handle the issue and decide whether to approve the involvement of the official in question in the administrative decision-making process. This statement serves as a barrier for those who make decisions that clearly or apparently involve a conflict of interest.

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 a conflict of interest can meet these requirements.

The table below displays the number of private interest declarations and asset and income declarations received by IAAC and other related data in 2020 and 2021.

Indicators		Total	
		Previous year 2020	The current year 2021
Number of declarants at the beginning of the calendar year		41686	44829
Total number of new declarants for that year		18360	12204
	Appointed	7842	9958
	Elected	7761	256
	Others	2757	1990
Total number of declarants who stopped to disclose for that calendar year		15228	9479
	Resigned	6726	6758
	Fired	1412	183
	Others	7090	2538
Total number of persons subject to disclosure for that year		44829	47554
	Submitted on time	<b>44829</b>	<b>47554</b>
	Late submission	0	0
	Failed to submit, refused to submit	0	0
Number of persons submitted their declarations at the end of the calendar year row		44829	47554
Form of receipt of certification notes issued by declarants	From hand to hand	35813	37486
	From official post	6742	7362
	From e-mail	2274	2706
Number of decelerations with substantial alteration		484	1022
Total number of statements of non-conflict of interest row		37010	34818

	Number of statements stating non-conflict of interest	36677	34485
	Number of statements stating conflict of interest	333	333
	Number of reports on occurrence of conflict of interest	42	56
	Number of persons issued their preliminary declaration of private interest	8719	10563

### General framework

In order to further clarify and determine the procedure regarding the submission of asset and income declarations and private interest declarations as well as preliminary private interest declarations and establish the form of those declarations in question, the Standing Committee on Legal Affairs of the State Great Khural adopted Resolution No. 5 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” on 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 the occurrence of conflict of interest;
- List of officials obliged to submit the declaration of private interest and declaration of asset and income”;
- Form for declaration of assets and income of an election candidate.

Summary of income and assets of all high-level public officials, including the President of Mongolia, Chairman 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 declarations from public officials. As a result of the enforcement of the Conflicts of Interest Law in 2013, the IAAC started receiving additional private interest declarations from public officials. Both declarations were received in paper-based format.

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

In 2016, the IAAC streamlined its electronic declaration submission system by adding a 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 certain predefined criteria.

There is another form aside from asset and income declaration and private interest declaration as well as preliminary private interest declaration: a statement of non-conflict of interest, a report on the occurrence of conflict of interest. The official shall use this form for the procedure described below, and Resolution No. 5 of the Standing Committee on Legal Affairs of the State Great Khural of 2012 approves the form.

### Examples of implementation

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

- 10,440 people (26.1 percent) - public administration positions
- 13,478 people (33.6 percent) - special State service positions
- 7,443 people (18.6 percent) - political positions
- 4,370 people (10.9 percent) - Managerial level officials at public support service positions.
- 272 people (0.7 percent) - high-level officials
- 4,070 people (10.1 percent) - other officials.

Of the total number of declarants, 21,885 people (54.6 percent) are from Ulaanbaatar city, and 18,188 people (45.4 percent) are from the countryside.

Out of the total number of the declarants, 16,011 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

#### *(b) Observations on the implementation of the article*

Mongolia has established a financial disclosure framework, as described under the section on article 52 of the Convention, below. Officials are also obliged to declare possible conflicts of interest before taking part in any administrative decision with financial or legal implications (art. 8.1 of the Conflicts of Interest Law). IAAC screens asset and income and private interest declarations to identify possible conflicts of interests prior to a person being appointed. Public officials are prohibited from accepting gifts in the performance of their official duties (art. 16 of the Law). Furthermore, they are not allowed to concurrently hold any job or position other than those allowed by the Conflicts of Interest Law (art. 18), and they cannot engage in business activities or work in the management structure of an enterprise, except in a limited number of cases as outlined in the Conflicts of Interest Law (art. 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.

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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

Ethical sanctions are imposed on public officials who violate the seven norms specified by the Code of Conduct of officials of administrative and support service adopted by Decree No. 33 of the Government in 2019. The code of conduct of administrative and support service officials specifies two ethical sanctions: oblige to apologize and reprimand. Also, according to the code of conduct, the dismissal on a voluntary ground is considered an execution of the ethical responsibility.

**Conduct of officials of administrative and support service**

Two. Ethical standards of civil servants

2.1. Civil servants shall observe the following ethical standards in their activities:

2.1.1. express and uphold the principle of respect for the rule of law guaranteed by the Constitution and other laws in their opinions, morals, words and actions;

2.1.2. respecting justice and being free from conflict of personal interests;

2.1.3. cherish the tradition of statehood, history, and culture, respect human dignity, honor, rights, and legitimate interests;

2.1.4. serve the people wholeheartedly and honor the reputation of public service;

2.1.5. is responsible for failure to properly fulfill official duties;

2.1.6. in performing his official duties, he is politically neutral and free from any influence of political parties, coalitions, or movements;

2.1.7. obey the rules of command and control.

Four. Liability for violation of ethical standards

4.1. Ethical violations are acts or omissions of civil servants that violate the ethical norms.

4.2. Civil servants who violate the ethical standards of civil servants shall be subject to the following ethical responsibilities, taking into account the nature of the violation:

4.2.1. oblige to apologize;

4.2.2. remind;

4.3. Voluntary resignation of a civil servant in accordance with Article 3.1.5.b of this rule shall be considered ethical responsibility.

4.4. If the violation of the ethical norms of the civil servant is a disciplinary or administrative offense or a criminal offense, he will be charged according to the relevant law.

The Ethical Council shall be established in public organizations with 3-7 members depending on

the entity's size. 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 decisions based on the votes of the majority of the members. When choosing the sanction to oblige the public official to apologize, the Council shall determine the form of the sanction. When the number of employees of the institution reaches 25, the organization is allowed to establish Ethical Council. The institution may choose not to set up the Ethical Council if the number of employees doesn't reach 25. In this case, the official responsible for human resource matters is allowed to inspect the complaints, and the head of the institution issues the final decision.

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

The Civil Service Council keeps the unified registration of ethical sanctions imposed on public officials; however, there are no meaningful statistics on the topic because the new code of conduct entered into force just recently.

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

According to Article 48 of the Civil Service Law and article 1 of the rule on imposing disciplinary sanctions on core civil servants 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.<sup>21</sup>

Disciplinary sanctions provided above may not be imposed in an order established in the law. A core civil servant shall be imposed disciplinary sanctions by the decision of the authorized official who appointed the core civil servant or the institution's director in case the civil servant is appointed by the institution with participatory management. Any disciplinary sanctions shall not be imposed if more than 6 months have passed since the disciplinary violation was disclosed and more than 12

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<sup>21</sup> Article 4(2) of the Civil Service Law states this law and other legislations shall regulate the legal status of public officials. Some laws, such as General Administrative Law and Law on Police Service, provide specific provisions related to penalizing an official, different from the Civil Service Law.

months have passed since the violation occurred. Also, two or more disciplinary sanctions shall not be imposed simultaneously. In case a core civil servant is not subject to another disciplinary sanction within a year following the last disciplinary sanction, he/she shall be deemed unsanctioned, and any consequence of the earlier imposed sanction ceases to exist. Disciplinary sanctions imposed on 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 of the decision being notified.

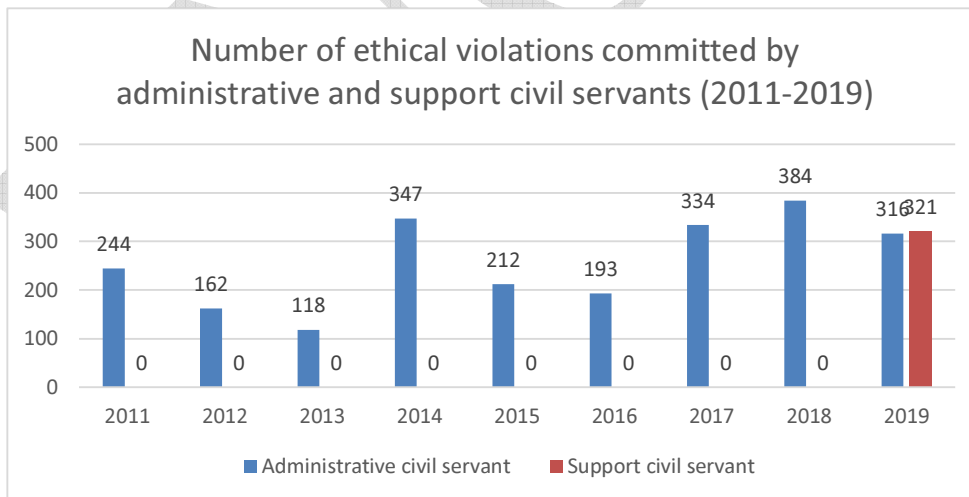
At this stage, there are no statistics on disciplinary sanctions imposed on public officials as the new legal framework was entered into force recently in 2019.

However, some statistics on complaints and reports regarding ethical violations committed by 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.

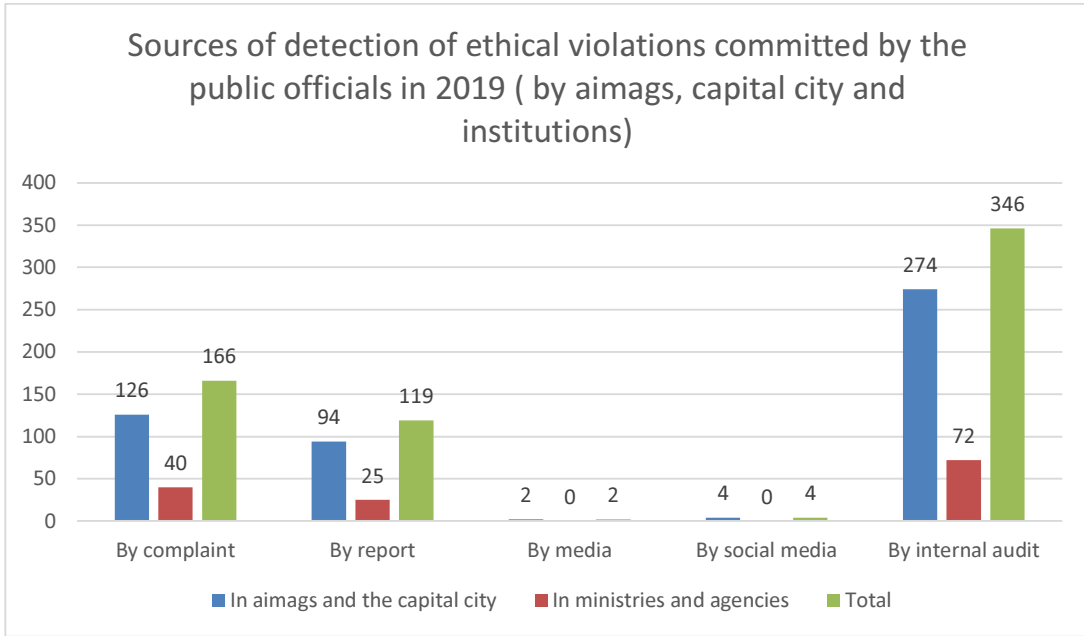
### Examples of implementation

In 2019, a total of 637 civil servants, out of which 316 administrative civil servants and 321 support civil servants sanctioned for violation of ethics.

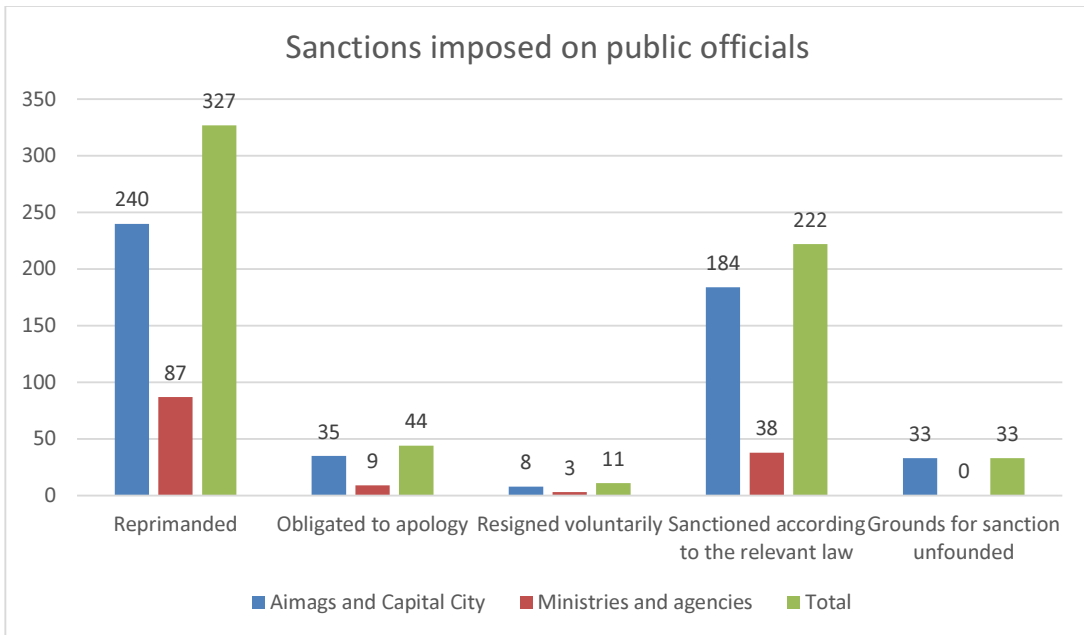
The number of ethical violations committed by administrative and support civil servants from 2011 to 2019 is provided below:



The below graphic shows that in 2019, complaints, reports, media, social media and internal audits were sources of detection of 157, 119, 2, 4, and 346 violations, respectively.



As for follow-up measures that were taken with respect to complaints and reports in 2019, officials were reprimanded in 327 cases; officials were obligated to apologize in 44 cases; officials resigned voluntarily in 11 cases; officials were sanctioned in 22 cases; grounds of sanction were deemed unfounded in 33 cases.



Out of 637 ethical violations registered in Civil Service Council in 2019, 17 violations were committed by senior-level administrative civil servants, 299 violations were committed by executive-level civil servants, 321 violations were committed by support civil servants with senior and executive-level officials combined.

*(b) Observations on the implementation of the article*

Mongolia has reported on measures taken to establish disciplinary and ethical sanctions against public officials who violate the codes or standards established to enhance and promote integrity and honesty among the public officials.

**Article 9. Public procurement and management of public finances**

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Subparagraph 1(a):

Regarding the public distribution of information relating to procurement procedures and contracts, Mongolia has developed an e-procurement system for public procurement - [www.tender.gov.mn](http://www.tender.gov.mn). It distributes information about procurement planning, bidding, contract performance and laws, e-shopping etc.

Moreover, Mongolia adopted its National Anti-Corruption Strategy in 2016. Enhancing the legal framework of the public procurement process, increasing its transparency, accessibility and fairness, lowering the costs of organizing a bid/tender, and improving monitoring and



accountability of the public procurement process is one of the objectives of the National Anti-Corruption Strategy. The document included the following activities to meet its objective:

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

The Ministry of Finance oversees the procurement process and has special procurement inspectors. It determines the policy on the procurement processes, drafts the relevant law and/or rules pertaining to the procurement procedure for approval and supervises implementations thereof. It also deals with certain complaints regarding disagreement with procurer's decisions or when a procurer fails to make decision within the time limit set by the law or against decisions to award the contract.

The State Procurement Agency (established in 2020) is in charge of state and regional level large procurement.<sup>22</sup> The procurement system is semi-centralized and is regulated by the Public Procurement Law<sup>23</sup> of Mongolia and numerous other regulations. Among others, these regulations include:

- Decrees issued by the Government of Mongolia:
  - Decree No 22 of 2006 on “Floor prices in selecting procedure of Public Procurement Law”;
  - Decree No 316 of 2015 on “Procedure for maintaining records of legal persons barred from procurement”;
  - Decree No316 of 2015 on “Rule for state inspectors of the government procurement;
  - Decree No 115 of 2012 on “Procedure for organizing, implementing and reviewing procurement activities.”
- Orders issued by the Minister of Finance:
  - Order No208 of 2019 on “Procedure for preliminary procurement activities”;
  - Order No39 of 2013 on “Procedure for procurement activities with public involvement”;
  - Order No234 of 2017 on “Procedure for organizing general contracts”;
  - Order No 81 of 2007 on “regulating organization, activities and incentives of Evaluation Committee”;
  - Order No 396 of 2006 on “Procedure for planning and reporting public procurements”;

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<sup>22</sup> A Paragraph 45.5 of Article 45 of the Public Procurement Law indicates that “The list of state and regional level projects and measures subject to implementation by the administrative body in charge of government procurement (the State Procurement Agency) shall be approved by the Government within 5 working days after the adoption of the state budget in that budget year”.

<sup>23</sup> Available at: [https://iaac.mn/uploads/users/1278/files/15\\_Public%20Procurement%20Law%20of%20Mongolia.pdf](https://iaac.mn/uploads/users/1278/files/15_Public%20Procurement%20Law%20of%20Mongolia.pdf)

- Order No264 of 2013 on “Procedure for keeping records”;
- Order No7 of 2013 on “Procedure for organizing procurement activities through e-procurement system and announcing the pertinent information”;
- Order 132 of 2019 on “Procedure for disclosing tender materials to the tender participants”;
- Order No131 of 2019 on “Procedure for reviewing grievance issued by the tender participants”;
- Order No 24 of 2006 on “Procedure for training procurement officers and awarding certificates”;
- Order No 365 of 2017 on “Procedure for conducting internal audit in procurement activities”.
- Instructions issued by the Minister of Finance:
  - Order No 81 of 2007 on “Methodology for awarding advantage to tender participants”;
  - Order No194 of 2012 on “Instruction for evaluating tender /goods and works/”;
  - Order No249 of 2008 on “Instruction for evaluating tender /consultancy/”.

Any goods, works and services with a value that exceeds 20 million tugriks (about 5,700 dollars) must be procured, although exceptions apply (art. 3 of the Public Procurement Law).

## **Public Procurement Law**

### Article 3. Scope of the Law

*3.1. The law shall apply to procurement of goods, works and services with state and local funds.*

*3.2. This law shall be applied on procurement of goods, works and services funded by foreign grants or loans, unless other procurement procedures are specified by the relevant Mongolian international treaty.*

*3.3. The Law on Transparency of Information and Right to Obtain Information, and Law on Transparent Accounts shall govern the relationship concerning the transparency of the procurement of goods, works, and services by the state and local funds. /This clause was added by the Law ratified on the 16<sup>th</sup> of June, 2011/ /This clause was amended by the Law ratified on the 1<sup>st</sup> of July, 2014 and shall become effective from the 1<sup>st</sup> of January, 2015/*

*3.4. This law shall not apply to the procurement of special purpose equipment, facility, works, services, and firearms, which are ascribed by law pertaining to state secret and relating to ensuring of national security. /This clause was amended by the Law ratified on the 16<sup>th</sup> of June, 2011/*

*3.5. The Law shall not apply to procurement of works, and services related to maintenance of the roads of national significance, executed by the state-owned entity, acting pursuant to its power mandated by the legislation. /This clause was amended by the Law ratified on the 16<sup>th</sup> of June, 2011/*

*3.6. The Law shall not apply to procurement of goods, works and services related to activities of the Development Bank of Mongolia. /This clause was added by the Law ratified on the 10<sup>th</sup> of February, 2011/ /This clause was amended by the Law ratified*

*on the 16<sup>th</sup> of June, 2011/*

*3.7. The Law shall not apply to procurement of goods, works and services related to elections organized by the General Election Commission of Mongolia with the budget stated in provision 38.1 of the Law on Election. /This clause was added by the Law ratified on the 5<sup>th</sup> of February, 2016/*

*3.8. The Law shall not apply to procurement of goods, works and services related to activities of the Future Heritage Foundation and the Future Heritage Foundation Corporate. /This clause was added by the Law ratified on the 5<sup>th</sup> of February, 2016 and shall become effective from the 1<sup>st</sup> of January, 2017/*

In general, the procurement process observes the following steps:

- Disclosing a bid invitation to the public (Public Procurement Law, Article 21): (1) the procuring entity shall publicly advertise the invitation to bid through nationally circulated daily newspapers, e-procurement system for public procurement and other forms of mass media; (2) the procuring entity shall advertise detailed information of the tender 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 is selected as the “lowest evaluated bid (a bid which is substantially responsive and offers the lowest price” and inform the decision to that bidder and bid rejection justifications to the other (unsuccessful) bidders, simultaneously.
- Disclosing a bid result (Public Procurement Law, Article 29): The procuring entity shall disclose a bid result on the e-procurement platform.

When procuring entity disclosure information about bidding results, 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 the lowest evaluated 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.

## **Public Procurement Law**

### Article 21. Public Advertisement of Invitation for Bids

*21.1. The procuring entity shall publicly advertise the invitation for bids, through national circulation daily newspapers and other forms of mass media.*

*21.2. The procuring entity shall advertise detailed information of the bidding openly and transparently and provide to any interested entity without delay.*

*21.3. For works with cost estimates exceeding MNT 10,000,000,001 and goods, and services with cost estimates exceeding MNT 100,000,001, the invitation for bids shall*

*be published through publications, media outlets in a language widely used in international trade. /This clause was amended by the Law ratified on the 9<sup>th</sup> of June, 2011/*

*21.4. The procuring entity shall post the invitation for bids as well as a result of the bid evaluation each time, on the website specified in 52.1.12 of this law. /This clause was amended by the Law ratified on the 9<sup>th</sup> of June, 2011/*

*21.5. The invitation for bids shall contain the following information:*

*21.5.1. definition of the procuring entity;*

*21.5.2. a brief description of the works, goods, and services to be procured;*

*21.5.3. the address at which bidding documents or other information are available and bids to be submitted;*

*21.5.4. price of bidding document;*

*21.5.5. special requirements for bidding;*

*21.5.6. deadline for bid submission;*

*21.5.7. bid opening date and time;*

*21.5.8. whether to allow participation of foreign entities or not;*

*21.5.9. whether to grant a preference or not.*

#### Article 22. Provision of Bidding Documents and Related Information

*22.1. The procuring entity is obliged to finalize preparing a bidding document, before to the date of publishing the invitation for bids.*

*22.2. The bidding document shall be priced at the fee of reproducing and delivering the document, and organizing the bid evaluation and sold without a delay to any interested parties at that price.*

*22.3. 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.*

*22.4. The procuring entity shall provide the additional information and/or clarification along with a copy of the request specified in 22.3 of this law in writing, simultaneously to all interested parties who have bought the bidding document and the additional information or clarification shall be considered as delivered after its submission to the postal office.*

#### Article 23. Preparation and Dissemination of Bidding Document and Invitation for Bids in Foreign Language

*23.1. The bidding document and invitation for bids shall be prepared in the Mongolian language as well as in the language that widely used in international trade in the following cases:*

*23.1.1. participation of foreign bidders is allowed in the bidding in accordance with article 9 of this law;*

*23.1.2. the procuring entity considers that the cost estimates and nature or scope of goods, works, and services would attract the interest of foreign parties.*

Subparagraph 1(b):

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

Information that 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 that must be included in an invitation for bid (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 is 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, the Law specifies (art. 19.1) that the procuring entity shall prepare bidding documents according to standard bidding documents, contract templates, or other procedures and methodology approved by the minister in charge of budgetary issues.

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

**Public Procurement Law**

Article 19. Preparing a Bidding Document

*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.*

*19.2. Bidding documents shall 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.*

Subparagraph 1 (c):

In 2008 and 2012, the Minister of Finance adopted the following guidelines to facilitate the subsequent verification of the correct application of the procurement rules and procedures:

- Bid evaluation guideline for goods and works - approved by Finance Minister's Order No. 194 of September 28, 2012.
- Bid evaluation guideline for consulting services - approved by Finance Minister's Order No. 249 of June 20, 2008.

Above mentioned bid evaluation guidelines for goods, works, and consulting services are in effect and used in public procurement and provide detailed instructions and calculations for bid evaluations.

## **Public Procurement Law**

### Article 29. Award of Contract

29.1. *The procuring entity shall award the contract to the bidder whose bid has been met the requirements of article 27 of this law and submitted the “best evaluated substantially responsive” bid as specified in article 28, and inform in writing about it to this bidder and the justifications on which their bids were not selected to the other bidders, simultaneously.*

*/This clause was amended by the Law ratified on the 9<sup>th</sup> of June, 2011/*

29.2. *The contract shall be signed not less than 5 working days after notification of the award of the contract, within the bid validity period.*

29.3. *If the bidder, who has submitted the “best evaluated substantially responsive” bid, refuses to enter into a contract, or in the case where the circumstances specified in 20.7.2 of this law are emerged, the procuring entity shall annul the award of the contract sent to the bidder, enter into a contract with the bidder who has the next “best evaluated substantially responsive” bid in accordance with the provisions of this law, and in the absence of such bidder, makes one of the decisions specified in provision 30.4.*

29.4. *If signing of a contract is not possible prior to the expiration of the bid validity period due to reasons not related to the procuring entity, the procuring entity shall extend this period for 30 days for a one time, based on the request to the state central administrative body responsible for budget issues and upon receipt of the no-objection.*

*/This clause was amended by the Law ratified on the 9<sup>th</sup> of June, 2011/*

29.5. *Within 5 working days following the receipt of the request stated in provision 29.4 of this law, the state central administrative body responsible for budget issues shall make a decision, by reviewing documents, information, and other clarification provided by the procuring entity. /This clause was amended by the Law ratified on the 9<sup>th</sup> of June, 2011/*

### Subparagraph 1(d):

Bidders can challenge decisions the lower level entity makes and file complaints to the upper ladder, including procuring entities, Fair Competition and Consumer Protection Agency, the Ministry of Finance, and the Administrative Court (Articles 54-56, Public Procurement Law). If a tenderer is of the opinion that violations occurred that would limit fair competition, a complaint can ultimately be filed with the Agency for Fair Competition and Consumer Protection. Also, the “Procedure for reviewing and resolving complaints from bidders” was approved by Finance Minister’s Order No. 131 of June 4, 2019.

The Ministry of Finance sets standards and deals with certain complaints regarding the legitimacy of the preparatory process prior to the opening of bids (art. 55 of the Public Procurement Law).

## **Public Procurement Law**

### Article 54. Submitting Complaints to the Procuring Entity and Resolution of It

54.1. *A bidder may submit a written complaint attached with the supporting evidence*

*to the procuring entity within 5 working days after the date in which the bidder finds that procuring entity has breached its obligations related to the bidding.*

*54.2. The procuring entity shall notify all bidders about the nature of the complaint and based on respective decision, invite the bidder, whose interest might be affected, to attend a complaint resolution process.*

*54.3 If the bidder specified in 54.2 of this law fails to participate in the complaint resolution process shall be prohibited from submitting complaints further concerning the subject matter.*

*54.4. The procuring entity shall review and make a decision on the complaint within 10 working days after receiving the complaint, and the decision should describe a justification in the case of rejection and measures for resolving the complaints in the case of acceptance.*

*54.5 The procuring entity shall not issue an award of a contract after receiving a complaint, except its decision to continue the bidding with no suspension in order to protect public interests.*

*54.6. In pursuant to 54.5 of this law, if decided to continue the bidding, the respective justifications shall be submitted to the bidder with complaint in no less than 5 working days prior to accomplishing the decision.*

*54.7. The procuring entity shall not accept complaints submitted after awarding of contracts.*

#### Article 55. Making Complaint Regarding the Procuring Entity's Decision

*55.1. If the bidder considers that the provision 11.2 of this law is breached and violation on limitation of competition is observed during the preparation of bidding document, it may file a complaint to the Fair Competition and Consumer Protection Authority, and a complaint concerning with disagreement with the procuring entity's decision or decision not made within legal timeframe or any concerns on awarding of a contract, to the central administrative body in charge for budget respectively within 5 working days before opening the bids. /This part was amended by the Law ratified on the 9<sup>th</sup> of June, 2011/*

*55.2. Central administrative body in charge for budget and Fair Competition and Consumer Protection Authority shall review complaints made before awarding of a contract and resolve it within 14 days after receipt of complaints and this would become the final decision. /This part was amended by the Law ratified on the 9<sup>th</sup> of June, 2011/*

*55.3. Central administrative body in charge for budget and Fair Competition and Consumer Protection Authority shall make the following decision if they find that procuring entity breaches this law: /This part was amended by the Law ratified on the 10<sup>th</sup> of June, 2010/ /This part was amended by the Law ratified on the 9<sup>th</sup> of June, 2011/*

*55.3.1. partially or wholly revoke or modify the action or decision of the procuring entity that breaches this law.*

*55.3.2. provide an instruction on which provision of the law to be used, to address the issue.*

*55.3.3. request the procuring entity to continue the bidding after correction of violation.*

*55.4. Central administrative body in charge for budget and Fair Competition and*

*Consumer Protection Authority may conclude to temporal suspension of the decision or action by the procuring entity, during the review and resolution of the complaints in following cases if: /This part was amended by the Law ratified on the 10<sup>th</sup> of June, 2010/ /This part was amended by the Law ratified on the 9<sup>th</sup> of June, 2011/*

*55.4.1. it is more reasonable to grant the bidder's complaints;*

*55.4.2. the bidder faces a substantial amount of loss, if not suspended; 55.4.3. a temporary suspension is not clearly damaging to the government authorities, procuring entity, and bidders.*

~~55.5.~~

~~55.6.~~

~~55.7.~~

~~55.8. /This article was withdrawn by the Law ratified on the 9<sup>th</sup> of June, 2011/~~

#### Article 56. Filing a Complaint to the Court

*56.1. In the complaints not resolved within the timeframe stated in 55.2 of this law, or bidder disagrees with the decision, the bidders are entitled to file a claim to court. /This part was amended by the Law ratified on the 9<sup>th</sup> of June, 2011/*

*56.2. Complaints related to the bidding shall only be filed with the court after a contract is signed.*

*56.3. Unless otherwise stated in provisions 55.4.1-55.4.3 of this law, the court that received the complaint on bidding shall be prohibited to suspend the decision made by Central administrative body in charge for budget. /This part was amended by the Law ratified on the 6<sup>th</sup> of February, 2007/*

#### Subparagraph 1 (e):

Public employees and citizens who were appointed to be a member of a bid evaluation committee are mandated to declare their qualifications of the following requirements:<sup>24</sup>

1. I do not have a conflict of interest with bidders participating in this bid. If such a condition may exist, I will notify it and refuse to be a member of the evaluation committee.
2. If a bidder tries to influence the evaluation result through bribes and pressure, I will inform the procuring entity and law enforcement organizations.
3. My participation and contribution to 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 their certifications must be valid at the moment of their participation in the tender process. In compliance with this procedure, public employees in charge

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<sup>24</sup> Please also see: the Resolution No. 5 of Legal Standing Committee of the Parliament.



of public procurement and members of evaluation committees are trained by certified public procurement training institutions (NGOs). This process is regulated by the “Procedure for Structure, Activity and Remuneration of Evaluation Committee” approved by Finance Minister’s Order No. 212 of September 30, 2014.

## **Public Procurement Law**

### Article 8. Selection of Procurement Procedure

*8.1. The Cabinet shall determine the following threshold for each category of goods, works and services:*

*8.1.1. an upper ceiling for cost estimates of goods, works, and services to be procured under comparison method;*

*8.1.2. an upper ceiling for cost estimates of goods, works, and services to be procured directly;*

*8.1.3. an upper ceiling for cost estimates of consulting service under least-cost selection method;*

*8.1.4. /This clause was withdrawn by the Law ratified on the 9<sup>th</sup> of June, 2011/*

*8.1.5. a lower ceiling for cost estimates of goods, works, and services of which invitation to bid is subject to website posting, mentioned in provision 52.1.12 of this law;*

*8.2. The open bidding procedure shall be used in procurement of goods, works, and services of which cost estimates exceed the threshold, specified in provision 8.1.1 of this law, unless the law states otherwise.*

*8.3. The threshold, specified in provision 8.1 of this law would be reset by the Cabinet, based on the recommendations of the state central administrative body in charge of budget, when consumer price index fluctuates by more than 10%. /This clause was amended by the Law ratified on the 6<sup>th</sup> of February, 2007/*

*8.4. Selection of the procurement procedure shall be based on the total cost estimate of the goods, works, and services.*

*8.5. It is prohibited to conduct several biddings by splitting the total cost estimate for the purpose of staying within the threshold, specified in provision 8.1 of this law or refraining from the usage of the open bidding procedure.*

*8.6. For the purpose of promoting competition, the procuring entity may split the goods, works, and services into a series of packages and conduct several biddings by resemblance of type and similarity depending on their purpose, type, and geographical location.*

*8.7. The procuring entity shall meet the following requirements in the case of conducting bidding in packages as specified in provision 8.6 of this law:*

*8.7.1. the total cost of all packages shall be used for determining of the procurement procedure;*

*8.7.2. The procuring entity shall indicate the existence of packages, and the right of bidders to submit their proposals on one or several, and/or all bid packages, in the invitation to bid and bidding documents;*

*8.7.3. Each package shall be evaluated individually;*

8.7.4. *Select the option in which the total cost of all contracts to be signed as a result of bid evaluation, should be the minimum.*

8.8. *Award of contract may be given for each package or several packages or all packages.*

8.9. *If decision to award a contract for more than one package of goods or works or services to one bidder, should be mentioned in the procurement report.*

8.10. *It can be undertaken as a single bid to procure detailed design, construction and adjustment works to be conducted under a turnkey contract, according to procedure of the provision 5.1.16 of this law. /This clause was added by the Law ratified on the 6<sup>th</sup> of February 2007 /*

8.11. *A bid can be announced to purchase work, goods, and service by concluding a framework agreement. /This clause was added by the Law ratified on the 9<sup>th</sup> of June, 2011/*

8.12. *Procedures and guidelines for a framework agreement shall be approved by Cabinet member in charge of budget issues. /This clause was added by the Law ratified on the 9<sup>th</sup> of June, 2011 /*

#### Article 47. Evaluation Committee

47.1. *The procuring entity shall set up an Evaluation committee if the cost estimate of goods, works, and services exceeds the threshold specified in 8.1.1 of this law.*

47.2. *The Evaluation committee shall operate on non-standing basis and shall have following functions:*

47.2.1. *prepare technical specifications, invitation for bid, and bidding documents, and receive and open the bids in accordance with respective instructions;*

47.2.2. *review and evaluate bids, in order to issue evaluation verdicts and submit the decision to award a contract to the procuring entity. Officials authorized to represent the procuring entity stated in*

*46.2 of this law, are prohibited from changing this decision without any justification. /This clause was amended by the Law ratified on the 9<sup>th</sup> of June, 2011/*

47.3. *Officials appointed to the evaluation committee shall satisfy the following requirements:*

47.3.1. *shall be specialized in procurement or related sectors of given goods, services or works;*

47.3.2. *shall not to be parents, parents-in-law, spouse, brothers and sisters, and children of bidders and their representatives;*

47.3.3. *shall not have concluded an employment contract with a bidder during last 3 years;*

47.3.4. *shall not have any violations of civil servant's duties specified in 50.1 of this law during the last one year.*

47.4. *In order to ensure transparency in the procurement process, the bid evaluation committee shall include no less than two members representing related sector professional associations; private sector; or non-governmental organization; a citizen appointed by the respective People's Representative Khural; and an official from the respective Governor's Office. /This clause was amended by the Law ratified on the 9<sup>th</sup>*

*of June, 2011/*

*47.5. Procedure to appoint members to the evaluation committee and its operational procedures shall be approved by the Cabinet Member in charge of budget issues. /This clause was added by the Law ratified on the 9<sup>th</sup> of June, 2011/*

*47.6. Members of the evaluation committee shall be specialized in procurement. /This clause was amended by the Law ratified on the 9<sup>th</sup> of June, 2011/*

*47.7. A decision made by the evaluation committee (hereinafter referred to as the “evaluation report”) shall be in the form of meeting minutes and include decisions approved by the majority of committee members, their rationale, and all relevant information. /This clause was amended by the Law ratified on the 9<sup>th</sup> of June, 2011/*

*47.8. All committee members shall sign the evaluation report and members who had an opposing opinion shall make relevant notes on the report and sign on it. /This clause was amended by the Law ratified on the 9<sup>th</sup> of June, 2011/*

*47.9. An operational arrangement, activity and incentive of the evaluation committee shall be regulated by procedures approved by the Cabinet member in charge of budget issues. /This clause was amended by the Law ratified on the 9<sup>th</sup> of June, 2011/*

## **Examples of implementation**

### Subparagraph 1 (a):

All public organizations must 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 invitations for bids and other relevant documents on the e-Procurement System - [www.tender.gov.mn](http://www.tender.gov.mn). Every enterprise and citizen can access the e-Procurement System free of charge. After the bidders have been informed, they can pay the bidding fee to participate if they meet the requirements.

Examples can be seen in the e-Procurement System of Mongolia. As of December 11, 2018, 9 456 invitations for electronic bids had been published, 83.3% of the total 10697 bidding invitations announced on the e-Procurement System. Then the number of electronic bidding invitations on the e-Procurement System reached 11835 (97% of the total bidding 11835) on July 30, 2019.

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

### Subparagraph 1 (b):

In the case of the procedures for the implementation of the law, all procuring entities prepare their tender documents and technical specifications in advance and announce them through the e-Procurement System ([www.tender.gov.mn](http://www.tender.gov.mn)) and the daily newspapers. For more information, please see Articles 19, 21 and 22 of the Public Procurement Law.

Also, the scope of the Public Procurement Law is defined in Article 3 of the Law. The Ministry of Finance is in charge of administering the government policy, methodology, and oversight on procurement. According to article 21(4) of the Public Procurement Law, the procuring entity shall publish the invitation for bids as well as a result of the bid evaluation each time on the e-

Procurement website.

In addition, according to the new anti-corruption strategy and action plan, public entities must ensure transparency of public procurement, as mentioned above. Moreover, the Parliament adopted a new law - the Law on Glass Accounts,<sup>25</sup> in 2015. This law enables public monitoring and public disclosure of information regarding decision-making processes and activities about implementing budget laws to ensure effective budget management and transparent public procurement. Based on the law, the Government of Mongolia has developed an electronic portal (<https://shilendans.gov.mn>) for information disclosed in accordance with the law.

Subparagraph 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 plans that are published on the e-Procurement System. Also, it is possible to organize the bidding after the respective Budget Governor and the Ministry of Finance review the plan.

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

Subparagraph 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 complaints. Ministry of Finance has received 8 complaints: (Procuring entity's decision is justified in 2 cases, procuring entity's decision was not substantiated (need to re-evaluate) in 5 cases and in 1 case, the complainant withdrew its complaint). Fair Competition and Consumer Protection Agency has received and resolved 8 complaints in this period. In 6 cases, it was decided that competition was not restricted, while in 2 cases, it found a violation of fair competition rules. There have been no complaints reviewed by the court.

Subparagraph 1 (e):

The 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 (Ministry of Education and Science), 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 Articles 47, 50, and 52 of the Public Procurement Law)

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

According to Order No 24 of 2006 on "Procedures for training procurement officers and awarding certificates", the following training activities are organized:

- Basic training /A3 - 3 days/;

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<sup>25</sup> Available at: [https://iaac.mn/uploads/users/1278/files/8\\_Glass%20account%20law%20of%20Mongolia.pdf](https://iaac.mn/uploads/users/1278/files/8_Glass%20account%20law%20of%20Mongolia.pdf)

- Instructor's training /B5 – 5 days/;
- Basic e-training /A3- online/.

The purpose of training is to strengthen the capacity of procurement personnel as stated in Public Procurement Law. From January 2020 to September 2020, a total of 2 133 individuals attended the basic training and received A3 certificates.

**Mongolia reported the following actions required to ensure or improve the implementation of the Article under review:**

According to the 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 in compliance with the law and regulations ([www.tender.gov.mn](http://www.tender.gov.mn)).

The server's capacity for Electronic Procurement System was filled 6 times in 2018, taking immediate action on every occasion. Still, on January 17, 2019, some hard disk drives were damaged, resulting in a two-day delay in the system's normal functioning.

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

*(b) Observations on the implementation of the article*

The Public Procurement Law applies to the procurement of all goods, works and services. Mongolia has developed an e-procurement system ([www.tender.gov.mn](http://www.tender.gov.mn)), through which any item with a value that exceeds 20 million tugriks (about 5,700 dollars) must be procured. Certain exceptions apply (art. 3 of the Law).

The State Procurement Agency is in charge of state and/or regional level procurement processes and is responsible for managing the e-procurement platform. There is no threshold value for determining what constitutes state and/or regional level procurement processes; however, the Government approves a list of state and/or regional level procurement measures at the beginning of each budget year, and is handled by the State Procurement Agency (Article 45.4 and 45.5 of the Public Procurement Law). The Ministry of Finance sets rules, guidance and standard document and deals with certain complaints regarding disagreement with procurer's decisions or when a procurer fails to make decision within the time limit set by the law or against decisions to award the contract. (art. 55 of the Public Procurement Law).

Procuring entities are required to advertise invitations to bid publicly in the mass media and in the e-procurement system (art. 21 of the Public Procurement Law). The procuring entity must award the contract to the bidder whose bid is selected as the best evaluated substantially responsive bid and provide bid rejection justifications to the other bidders (art. 29 of the Law).

The Public Procurement Law also requires procuring entities to establish and publish, in advance, the conditions for participation in a bidding exercise (arts. 19 and 21).

The Public Procurement Law establishes a system of review and appeal. Tenderers can submit written complaints to a procuring entity. In principle, no contract can be issued while complaint proceedings are ongoing (art. 54). If a tenderer is of the opinion that violations occurred that would limit fair competition, a complaint can ultimately be filed with the Agency for Fair Competition and Consumer Rights, whereas if a tenderer is of the opinion that decision made by the procuring agency is against the law, a complaint can be filed with the Ministry of Finance (art. 55). Decisions can be appealed in administrative court (art. 56).

In order to ensure transparency in the procurement process, evaluation committees must consist of a minimum of two members representing the relevant sector's professional associations, the private sector or a non-government organization (art. 47.4 of the Public Procurement Law).

Public employees and citizens who have been appointed as a member of a bid evaluation committee are required to be specialized in public procurement (art. 47.6 of the Public Procurement Law). They are also obliged to declare, inter alia, that they do not have a conflict of interest in relation to the procurement process for which they have been appointed (art. 8 of the Law; art. 2.19 of Order 103/2021 adopted by the Minister of Finance).<sup>26</sup>

**It is recommended that Mongolia develop rules or methodologies to independently determine which procurement processes should be managed by the State Procurement Agency, rather than this being determined by the Government or line ministers on a case-by-case basis.**

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Subparagraph 2 (a):

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<sup>26</sup> Developments after the Country visit, as reported by Mongolia: The Parliament of Mongolia passed revised version of the Public Procurement Law on 16<sup>th</sup> June 2023 which includes provisions to reduce a human factor, to increase disclosure and transparency in all stages of tender selection processes, to ensure expedited and simple selection procedure, and to streamline system of accountability of contractors as well as tender organizers with the participation of the general public. The law is projected to enter into force on 1<sup>st</sup> December 2023.



Mongolian Parliament adopted the Budget Law (revised) in 2011. The law aims to ensure fiscal stability, enhance efficiency, and increase citizens' participation in the budgeting process. In accordance with the Budget Law, all principle of budget approval, budgeting methodology and methodology is fully complied with at all levels. Mongolian Parliament passed the Law on Glass Accounts in 2015. The law enables public monitoring and disclosure regarding decision-making processes and activities concerning implementing annual budgets to ensure effective budget management and transparent public procurement.

The stages of the budget preparation and adoption are as follows:

- The General Budget Governor of the budget /ministers, heads of the agencies/ shall submit a budget proposal to the central government body in charge of financial and budgetary matters /Ministry of Finance/before the 15<sup>th</sup> of August of each calendar year;
- The general government body in charge of financial and budgetary matters (Ministry of Finance) shall compile the budget proposals. It shall submit the draft budget to the Government before 15<sup>th</sup> September of each year according to paragraph 8.4.3 of Article 8 of the Budget Law;
- the Government shall submit the annual budget proposal to the Parliament before 1<sup>st</sup> October of each calendar year;
- the Parliament shall adopt the annual budget before the 15<sup>th</sup> of November of each year.

The State Budget Law of Mongolia for 2022 was approved by the State Great Khural on November 12, 2021. Please visit: <https://legalinfo.mn/mn/detail?lawId=16381595772311>

#### Subparagraph 2 (b):

It is in line with the Budget Law of Mongolia, which provides for reporting budget revenues and expenditures and is fully compliant with all levels. The general budget governor has 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.

The monthly budget reporting of the state, social insurance fund, health insurance fund, aimags and the city is conducted according to the requirements and timeframes stated in Paragraph 8.8 of Article 8 of the Budget Law.

### **Budget Law**

#### Article 8. Budget timeframe

[...]

*8.8. State budget, Future Heritage Fund budget, Social Insurance Fund budget, Health Insurance Fund budget, regional and capital budget monthly performance data shall be prepared and approved according to the following schedule.*

*8.8.1. the direct budget manager shall submit the monthly budget execution report to the central budget manager under his jurisdiction by the 2<sup>nd</sup> of every month;*

*8.8.2. the governor of the budget must submit the monthly performance data of the special fund and the budget to the governor of the budget portfolio within the 4<sup>th</sup> of each month;*

8.8.3. the budget portfolio manager shall deliver the monthly budget performance data to the central state administration organization in charge of finance and budget issues by the 6<sup>th</sup> of every month;

8.8.4. the central state administrative organization in charge of financial and budgetary issues shall summarize the monthly performance data of the consolidated budget by the 8<sup>th</sup> of every month;

8.9. State budget, Future Heritage Fund budget, Social Insurance Fund budget, Health Insurance Fund budget, quarterly, semi-annual and full-year budget performance of the local budget, consolidated financial report of the budget portfolio manager shall be prepared according to the following schedule:

8.9.1. the direct budget manager shall submit the quarterly budget performance and financial report within the first 15<sup>th</sup> of the first month of the following quarter to the higher-level budget managers, the annual budget performance and financial report shall be submitted to the state audit organization by January 25 of the following year and audited submit the financial report to the relevant higher-level budget administrator by February 25;

8.9.2. The central budget governor shall prepare the semi-annual budget performance and consolidated financial report by July 25 of each year to the general budget portfolio governor, and submit the annual budget performance and consolidated financial report to the state audit organization by March 5 of the following year, and submit the audited report to the budget portfolio manager by March 25 of each year;

8.9.3. sum and district treasury shall submit the semi-annual budget performance and consolidated financial report of the respective level by July 25 of each year to the higher-level budget portfolio governors, the annual budget performance and consolidated financial report shall be submitted by March 5 of the following year. to be submitted to the state audit organization and the audited report to be submitted to the higher-level budget portfolio governor by March 25 of each year.

[/The word "and publicize the audited report" of this provision was considered invalid by the law dated July 1, 2014./](#)

8.9.4. Provincial and metropolitan budget portfolio managers submit the annual budget execution and financial report to the state audit organization by April 1 of each year and submit the audited report to the central state administrative organization in charge of finance and budget issues by April 20.

[/The word "and publicize the audited report" of this provision was considered invalid by the law dated July 1, 2014./](#)

8.9.5. the budget portfolio manager submits the half-year budget execution and consolidated financial report to the central state administrative organization in charge of finance and budget issues by August 15 of each year, and the annual budget execution and consolidated financial report by April 5 of the following year submit to the central state audit organization and submit the audited report to the central state administrative organization in charge of finance and budget issues by April 25 of each year;

8.9.6. the budget portfolio manager in charge of finance and budget issues shall issue a half-year budget performance and consolidated financial report by August 25 of each year;



8.9.7. *The budget portfolio manager in charge of finance and budget issues shall issue the annual budget execution and consolidated financial report by April 15 of the following year and submit it to the central state audit organization, and the central state audit organization shall conduct an audit by May 5. form opinions;*

8.9.8. *Legal entities owned by the state or local government, with the participation of state or local property, shall submit their end-of-year financial report to the state audit organization by February 15 of the following year, and the audited report shall be submitted to the relevant budget portfolio manager by March 15. and deliver to the central state administrative organization in charge of financial and budgetary matters.*

*[/This clause was amended by the law of November 10, 2015/](#)*

8.10. *The implementation of the consolidated budget and the consolidated financial report of the Government shall be prepared according to the following schedule:*

8.10.1. *the central state administrative body in charge of financial and budgetary matters shall deliver the consolidated budget execution and consolidated financial report of the Government to the central state audit body by May 10 of each year;*

8.10.2. *the central state audit organization shall audit the implementation of the consolidated budget, the government debt report, and the consolidated financial report of the government within one month, and submit it to the government and the National Assembly;*

*[/This provision was amended by the law dated February 18, 2015/](#)*

8.10.3. *Within seven working days from the issuance of the audit report specified in Article 8.10.2 of this law, the Government shall submit the consolidated budget performance and consolidated financial report together with the audit report to the State Great Khural;*

8.10.4. *The National Assembly discusses the implementation report of the joint budget in the spring session and approves the implementation of the state budget;*

The integrated monthly and annual budget reports and the integrated financial report of the Government, along with its commentaries and presentations prepared by the Ministry of Finance, are submitted to the Parliament, the Government, the National Statistics Office, the Central Bank of Mongolia, International Monetary Fund, the World Bank, the Budget Expenditure Sub-Committee of the Parliament, the Budget Sustainability Review Council, the Secretariat of the National Security Council and also disclosed to the public through the Ministry's website and Glass Account electronic portal.

Subparagraph 2 (c):

1. Rules, regulations and laws governing accounting and internal and external auditing standards for the national budget and public finance administration;

Two central legislations govern internal auditing standards for the national budget and public finance administration:

- a. Budget Law. Article 69.

Paragraph 69.1: Each general budget governor shall establish an internal audit unit and employ an internal auditor in charge of reviewing the implementation of the legislations, conducting financial inspection, assessment of budgetary asset, debts, payments, income, expenditure, program, measures, investment, issuing verdict and recommendation and providing risk management.

Paragraph 69.3: The internal audit shall cover financial activities of public organizations, state or local government-owned enterprises and companies, the majority shares of which are owned by the state or local government that falls under the jurisdiction of the general budget governor.

b. “Internal audit rule” adopted by Decree No483 of 2015 issued by the Government.

The rule describes objectives, scope, principles, organization of the internal audit and mandates of the internal auditor and financial inspector of each general budget governor, the direct budget governor, as well as the central budget governor and regulates relations concerning activities of internal audit and financial inspection and its collaboration with the independent audit body.

## 2. Monitoring, supervision and evaluation of the performance of government accountants and auditors.

Paragraph 69.2 of Article 69 of the Budget Law states that “the central government body in charge of financial and budgetary matters shall provide the internal audit unit of the general budget governor with operational standards and technical assistance.” Also, paragraph 8.5 of Article 8 of the “Internal Audit Rule” adopted by Decree No 483 of 2015 issued by the Government stipulates that “the central government body in charge of financial and budgetary matters shall conduct a quality evaluation on all internal audit activities of the general budget governor and other budget governors once every two years according to the international standards for the professional practice of internal auditing.” In light of this, the Ministry of Finance developed “Methodology for quality evaluation,” which contains one main article and 10 appendices that are to be used in quality evaluation according to the “Procedure for conducting a quality evaluation of the internal audit” adopted by Decree No 274 of 2019 issued by the Minister for Finance. 6 quality evaluations were conducted between 2016 and 2019.

## 3. Revenue agencies (tax, customs, treasury) and revenue collection process

The General Department for Taxation is the state agency in charge of collecting approximately 30 types of taxes and charges imposed by the government. It has branch offices in all 21 aimags, 9 districts of Ulaanbaatar and Ulaanbaatar city. This structure of operation has been essentially unchanged for decades. However, the General Department for Taxation introduced E-Tax System in late 2018, which significantly streamlined the tax collection procedure in terms of improving transparency and reducing human interference as a result.

Before late 2018, the branch offices used 32 separate servers to process tax reports and declarations submitted by taxpayers. This was a largely segregated process and required manual operations. For instance, each district or aimag branch owned separate tax accounts and each type of tax, such as income tax, VAT etc., had its own dedicated tax account. This complexity was further segregated by banks that were involved in tax collection. Namely, if a branch office collected taxes through 3 banks simultaneously, each bank managed tax accounts separately. This resulted in over 3000 tax accounts mostly overlapped by district,

aimag, types of tax and banks involved. In order to clear the payments sent by the taxpayers, the tax officers cleared the transactions at the end of that day, referring to the bank statements of the period.

This tedious task was finally solved when E-Tax System was introduced. The system works in tandem with the State Information Exchange System “Khur,” where all data of citizens and legal entities are stored. The “Khur” system supplies taxpayers’ details to the E-Tax System instantly when the taxpayer opens a user account in E-Tax System. The taxpayer then provides necessary entries in E-Tax System and receives an electronically generated invoice describing the due tax type and amount. Using E-Tax websites or mobile applications, the taxpayer pays the amount indicated by the invoice. The invoice and payments are recorded simultaneously and instantly in the servers residing in the Treasury of the Ministry of Finance and General Department of Taxation. The tax payment report is also instantaneously displayed in tax payer’s history.

TAX REPORT /ACCUMULATIVE/

/in Million MNT/

TAX TYPE	12/31/2018		12/31/2019		12/31/2020	
	Number of tax payers	Amount of paid tax	Number of tax payers	Amount of paid tax	Number of tax payers	Amount of paid tax
Corporate income tax	20,859.0	1,375,362.7	36,137.0	1,704,420.5	32,455.0	1,600,062.8
Mining tax	297.0	1,114,524.9	231.0	1,383,686.7	182.0	1,218,129.9
Value added tax	10,076.0	898,851.5	15,627.0	1,092,790.3	15,792.0	1,029,245.2
Tax levied on alcohols, tobacco, fuel and cars	44.0	220,698.7	47.0	244,497.3	40.0	214,986.7
Income tax /for individuals/	32,852.0	643,613.9	41,744.0	699,760.2	38,878.0	537,184.0
Others	98,358.0	593,737.9	455,748.0	707,161.4	475,731.0	864,283.9
<b>Total</b>	<b>162,486</b>	<b>4,846,789.7</b>	<b>549,534</b>	<b>5,832,361.9</b>	<b>563,078</b>	<b>5,463,892.4</b>

Link to E-Tax System:

[https://auth.itc.gov.mn/auth/realms/ITC/protocol/openid-connect/auth?client\\_id=etax-gui&redirect\\_uri=https%3A%2F%2Fetax.mta.mn%2Fapp&state=28a537f7-2f03-4a05-85e9-128d3ebf1e58&response\\_mode=fragment&response\\_type=code&scope=openid&nonce=63d418ac-d977-410b-9126-6a4984815d7a](https://auth.itc.gov.mn/auth/realms/ITC/protocol/openid-connect/auth?client_id=etax-gui&redirect_uri=https%3A%2F%2Fetax.mta.mn%2Fapp&state=28a537f7-2f03-4a05-85e9-128d3ebf1e58&response_mode=fragment&response_type=code&scope=openid&nonce=63d418ac-d977-410b-9126-6a4984815d7a)

Mongolian Customs is the state agency in charge of collecting import and export duties, including special export tax and excise duty on alcohol, cigarette and tobacco, petroleum, fuel,

automobiles etc. it implements its mandates through branch offices and ports in aimags and the Ulaanbaatar city. Mongolia is a landlocked country bordering only Russia and China. There are 10 and 13 ports on the Russian and Chinese borders, respectively. Furthermore, customs ports are operating in each of the four airports. Furthermore, Mongolian Customs consists of 19 branch offices in Ulaanbaatar city and aimags. As stipulated by the international convention and Law on Customs, Mongolian Customs offers its clients self-declaration or declaration through an intermediary procedure. If the individual or legal entity wishes to use the self-declaration procedure, he/she should use Customs External Portal System /CEPS/ and choose from the following two options:

1. Internet Declaration Procedure;
2. Electronic Self-Declaration Procedure.

The Internet declaration Procedure: the user account to the system can be given to only private entities with staff that can navigate and operate CEPS. As of March 2021, 109 companies use CESP without the help of customs intermediaries. Comparing it to the figure for March 2020, the number of private entities using the CEPS increased by 19 (17,4 percent).

Electronic Self-Declaration Procedure: Due to the Covid-19 pandemic, Mongolian Customs introduced Electronic Self-Declaration Procedure on 1<sup>st</sup> January 2021. As of March 2021, 20 private entities used this procedure by declaring 3259 types of goods worth USD6,7 million and paid MNT 3,1 million. The procedure has the following advantage over the first one:

- The Internet Declaration Procedure requires private entities to submit an application to Mongolian Customs to acquire a user account at CEPS. The new procedure enables the companies to use their account number used for inquiry at: <http://portal.ecustoms.mn>.
- The new procedure provides more user-friendly forms.
- The customs documentation can be created based on attachments in PDF format.
- The customs duty invoice can be sent via the system, and the payments can be made through the Internet.
- The entire process, from initiating declaration to paying tax, is transferred to the electronic system except for meeting the customs inspector during the inspection and receipt of the goods which is carried out in the customs security zone.

Both procedures prevent face-to-face meetings between taxpayers and customs officials as much as possible and save the business time and cost. Mongolian Customs is targeting to consolidate two procedures into a single and coherent system with support from a project funded by the Asian Development Bank.

Link to the CEPS:

[http://portal.ecustoms.mn/CEPS/normal.do?\\_common\\_serviceName=retrieveMainBoardList&\\_common\\_view=main.jsp](http://portal.ecustoms.mn/CEPS/normal.do?_common_serviceName=retrieveMainBoardList&_common_view=main.jsp)

#### 4. Organization of expenditure services for better user satisfaction and transparency in the management of public funds

Apart from reporting and internal auditing stipulated by the Budget Law, which serves as an instrument for ensuring user satisfaction and transparency of public expenditure, the following measures are also implemented by the law:

- a. The general budget governor is obliged to tangibly determine funding of programs to

be implemented under her jurisdiction (paragraph 14.2.2 of Article 14 of the Budget Law), manage the funding efficiently, and ensure its execution (paragraph 14.2.3 of Article 14 of the Budget Law).

- b. Furthermore, the Law on Glass Accounts further regulates the transparency of public budget expenditure matters. This law aims to create a transparent system ("glass accounts") to enable public monitoring and further disclosure regarding decision-making processes and activities carried out concerning implementing budget management for the purpose of efficiently allocating/spending state and local administration budgets. The procedure and the types of information published on the glass account system and the persons responsible for its maintenance, please refer to the below information.

#### **Law on Glass Accounts:**

##### Article 5. Information delivery format of glass account

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

*5.1.1. there shall be separate menu for glass account;*

*5.1.2. information shall be downloadable and printable;*

*5.1.3. name and contact details of the officer in charge issuing references shall be located in the website;*

*5.1.4. 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.*

*5.2. Information on glass account can be in audio and video forms.*

*5.3. For the purpose of implementing this law, a glass account website shall be established. The government shall have the website operational, subject to implementation of this law, prior to 30 June 2016, and the website shall be operated by the Ministry of Finance.*

*5.4. The government shall approve common standards and regulation for uploading information and its content and form upon considering recommendation of the Ministry of Finance.*

*5.5. The glass account website shall be in accordance with classifications specified in Article 3.2 herein, and shall include complete information.*

*5.6. Decisions specified in Articles 3.2.5 to 3.2.8 of this law shall become valid and effective upon being uploaded to the website after the date specified in Article 5.3 herein.*

*5.7. Information regarding local budget and budget governor shall be placed on the relevant information board regardless of whether they have website specified in Article 5.1 herein.*

*5.8. Information board shall be accessible by the public and shall be certified by signature of the officer specified in Article 7 herein.*

##### Article 6. Glass account information

*6.1. Organisations and officers specified in Articles 3.1.1 and 3.1.2 herein shall disclose the following information on a regular basis:*

6.1.1. *annual budgets, procurement plans and local development fund plans shall be disclosed prior to 10 January each year;*

6.1.2. *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;*

6.1.3. *budget for the following year shall be disclosed within 15 September each year;*

6.1.4. *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;*

6.1.5. *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 be disclosed within 1 July;*

6.1.6. *budget savings, surplus and their reasoning shall be disclosed on quarterly basis;*

6.2. *Information specified in Article 6.1.1 herein shall be expressed in the following forms:*

6.2.1. *criteria figures for annual budget and its performance approved by authorised organisation;*

6.2.2. *incomes (income from main activities, and income from state organisations/;*

6.2.3. *operational expenditure /salaries, social security commissions, other operational expenditures, asset expenditures, and subsidies/;*

6.2.4. *asset expenditures, investment projects and activities, and concession items' list;*

6.2.5. *incomes to be accumulated in the state and local administration budget and their structure; and*

6.2.6. *financing sources /state budget, local administrative budget and self-budget/.*

6.3. *Information specified in Article 6.1.2 herein shall be expressed in the following forms:*

6.3.1. *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;*

6.3.2. *comparison between budget performance and approved budget;*

6.3.3. *explanations for budget savings and surplus;*

6.3.4. *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;*

6.3.5. *amount of grants and aids, and their allocation/expenditure;*

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

6.3.7. *investment expenditures shall be disclosed in terms of financing project*

*and objects;*

*6.3.8. income, expenditure and investment in relation to special fund; and*

*6.3.9. performance of local development fund.*

*6.4. Organisations specified in Articles 3.1.1 and 3.1.2 of this law, shall disclose the information set out below within a week:*

*6.4.1. amendments and changes made to the current annual budget;*

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

*6.4.3. 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;*

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

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

*6.4.6. audit reports, verdicts and other results of monitoring [activities] of procurement processes;*

*6.4.7. amendments to approved employment positions in the organisation;*

*6.4.8. 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*

*6.4.9. other information specified in the law.*

*6.5. Ministry of Finance shall disclose the following information in addition to those specified in Articles 6.1 and 6.4 of this law:*

*6.5.1. 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;*

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

*6.5.3. information regarding foreign and domestic debts shall be disclosed on a quarterly basis;*

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

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

*6.5.6. budget performance and audited consolidated financial report shall disclosed within 25 August of the next year;*

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

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

*/This provision has been amended on 16 October 2014/*

6.5.9. *concession agreements and amendment thereto shall be disclosed within two weeks after the relevant execution [of the agreement or amendment thereof];*

*/This provision has been amended on 16 October 2014/*

6.5.10. *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;*

*/This provision has been amended on 16 October 2014/*

6.5.11. *information regarding securities issued by the government for the purpose of investments shall be disclosed on a quarterly basis;*

*/This provision has been amended on 16 October 2014/*

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

*/This provision has been amended on 16 October 2014/*

6.6. */This provision has been invalidated/repealed on 16 October 2014/*

6.7. *The Ministry of Population Development and Social Protection and other administrative authorities shall upload the list of full names of the people who are entitled to receive pension, allowances/relief, or otherwise payment from the social security fund, and shall update the same in timely manner.*

6.8. *Organisation specified in Article 3.1.3 of this law shall disclose the following information within a week:*

6.8.1. *decisions/orders of the respective organisations that are specified in Articles 3.2.5, 3.2.7 and 3.2.8 herein;*

6.8.2. *procurement plan, 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 basis for their selection and non-selection; and*

6.8.3. *guarantees and securities/sureties (батлан даалт) that could equal to major transactions of companies whose fifty or more percentage of the shares are held by the state or local administration.*

6.9. *organisations specified in Articles 3.1.4 and 3.1.5 herein that are financed from/by (i) state and local budget, (ii) government or local administration funds, (iii) local development fund investments and financing, (iv) bonds, securities, promissory notes and guarantees issued by government or authorities under its auspices, (v) projects, programmes and measures implemented under public private partnership agreements, shall disclose information relating to total budget/estimated costs, implementation process, expenditures and financing on a quarterly basis in accordance with the regulation approved by the government on the website and information board of the*



receiving entity as well as on the glass account website, and if necessary, may also disclose such information on other websites. Organisations specified in Articles 3.1.4 and 3.1.5 herein shall be exempt from paying the said information on websites and information boards of state authorities, and glass account website.

6.10. Information and transactions uploaded to the glass account website shall be accompanied with the relevant decisions from authorised entities, as well as information specified in Articles 8 and 9 of the Law of Mongolia on Regulating Public and Personal Interest in Public Works and Preventing Conflict of Interest.

#### Article 7. Public servant in charge of disclosing

7.1. The following public officials/servants shall be responsible for delivering the glass account information to the public in accordance with this law:

7.1.1. 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;

7.1.2. Public officials who influenced the entity specified in Article 7.1.1 above in exercising his/her authority;

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

7.2. Public officials who transferred his/her obligations to disclose/inform to a third parties shall not become the basis for release of liability.

## 5. Oversight system

If the violation committed by the budget governor and state accountant is not of criminal nature, the subject shall be held responsible as stated in paragraph 70.1 of Article 70 of the Budget Law.

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 (supreme audit body as well as its branch offices in aimags) and audited financial statements with its findings 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), and International financial reporting standards for SMEs (SMEs-IFRS) to International Public

## Sector Accounting Standards (IPSASs).

The State Audit Office audits the execution of the state budget, consolidated financial statements of the Government, annual budget execution of budgetary entities and budget governors, financial statements, consolidated financial statements, and annual financial statements of state and locally owned and partly legal entities in accordance with the Budget Law. Verdicts on increasing budget revenues, reducing budget expenditures, and improving budget financing efficiency in the draft annual budget submitted by the Government of Mongolia to the State Great Khural, as well as in the annual budget submitted by the aimag and capital city governors to the respective level Citizens' Representatives Khurals and submit it to the State Great Khural and aimag and capital city Citizens' Representatives Khurals.

The State Audit Office is an independent body that oversees the proper planning, allocation, use and disbursement of public finances, budgets and public property. Internal audit activities are carried out in accordance with internal audit regulations approved by a government decree.

Before approving the draft budget revenue and expenditure of Mongolia, the State Audit Office conducts an audit of the state budget revenue and expenditure before it is approved and submits its opinion to the Parliament. The State Audit Law clearly states that the annual state budget must be evaluated and reported before it is approved:

Verdicts on increasing budget revenues, reducing budget expenditures, and improving budget financing efficiency in the draft annual budget submitted by the Government of Mongolia to the State Great Khural, as well as in the annual budget submitted by the aimag and capital city governors to the respective level Citizens' Representatives Khurals and submits to the State Great Khural and the Citizens' Representatives Khurals of aimags and the capital city.

Following the release of Mongolia's budget revenue and expenditure report, the State Audit Office audits the execution of the Unified State Budget and reports to the State Great Khural, which is clearly stated in the Budget Law:

The State Audit Institution audits independently the execution of the consolidated budget, the Government Debt Report, and the Government Consolidated Financial Statement within one month and submits it to the Government and the State Great Khural.

Based on the audit report, the State Audit Office shall ensure the efficiency, effectiveness, and effectiveness of planning, allocating, using and spending public property within the framework of public finance, budget, public property legislation, administrative norms and other legal acts and make recommendations to the audited entity and other relevant officials to improve management.

The Standing Committee on Legal Affairs of the State Great Khural may hear the verdicts and recommendations of the audit report performed by the state audit organization and the presentation on its implementation. The Government shall cooperate with the State Audit Institution in implementing the recommendations, formal requirements and payment acts issued by the State Audit Office to the Government administrative body. The audited entity shall provide the State Audit Office with paper and electronic information and documents required for the audit and ensure that the information and documents are accurate, objective, and complete.

6. Structure that controls the accounts drawn up and that discharges the accountants who prepared the accounts

Relevant regulation was approved by the Order No. 298 of the Minister of Finance in 2012 to establish and implement the requirements and criteria for general and senior accountants of all levels of budget and general budget governors, to appoint and dismiss them, and to regulate their rights and responsibilities.

Section 6 of the regulation sets out the responsibilities of general and senior budget accountants.

*Six. Responsibilities of general and senior budget accountants*

*The General and Senior Budget Accountants shall be liable for violation of relevant legislation, incomplete and poor quality of financial statements, balance sheets and budget execution data based on unrealistic information, repeated delays and insufficient fulfillment of their obligations, Shall be subject to the penalties specified in Article 23 of the Law on Accounting.*

Subparagraph 2 (d):

Each general budget governor has established an internal audit unit and employed an internal auditor aimed at controlling enforcement of legislation, conducting a 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.

The “Risk Management Policy Document” was first approved by Order No.312 of the Finance Minister in 2013 in accordance with the ISO 31000 2011 Risk Management Standard issued by the International Organization for Standardization.

In connection with the revision of this standard in 2018 and the publication of ISO 31000 2018, the above-mentioned document was redeveloped as “The Risk Management Policy, Rules and Regulation of the MoF” and approved by the Order No. 291 of the Finance Minister in 2019.

According to this risk management policy document, the Risk Management Committee of MoF, chaired by the State Secretary, was established. The potential risks to the MoF activities were defined and classified into three categories: Strategic, Policy, and Operational Risks.

Article 12.1.16 of the Budget Law states that the Minister of Finance is responsible for implementing internal audits and financial control for the budget. According to this Article, the Internal Audit Committee of the MOF, chaired by the Minister, approves the Internal Audit and Financial Control Plan every year, and the Financial Control and Risk Management Department of the MOF conducts an audit and controls the budgets of budgetary organizations according to the approved yearly plan.

The internal audit was first introduced to the public sector in 2011 when the Budget Law was amended, and “Public Sector Internal Audit Guidance” was developed in 2013 for the use of public sector internal auditors in accordance with the International Professional Practices Framework (IPPF).

The above-mentioned guidance was redeveloped when the IPPF was fully changed in 2017, and the Guidance was approved and enforced in 2019 by Finance Minister’s Order No.268.

The Public Sector Internal Audit Guidance details each step of risk-based internal audit planning, the internal audit phase, as well as methodological chapters on compliance, performance, financial audits and information technology governance, its risk and control assessment, working papers used in the audit process and the assessment of internal control framework.

In accordance with the guidance, governance, risk management and internal controls of the audited organization are assessed, and if executive management of the audited organization did not take adequate measures to decrease its risks and did not exercise appropriate internal controls, the recommendations to improve internal control and manage risks are provided. The recommendations given are monitored and reviewed semi-annually.

Subparagraph 2 (e):

According to 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. Furthermore, certain misconduct by a public official against auditing practices is punishable by disciplinary actions as per the pertinent law (Article 42 of Law on State Audit).

All level court decisions related to the above-mentioned regulations are published on the judicial decision website and accessible to the public at: [www.shuukh.mn](http://www.shuukh.mn).

State account management process:

The Department of State Treasury of the Ministry of Finance manages state accounts and their income and expenditure. The Integrated Account of the State Treasury is maintained by the Central Bank of Mongolia and accessed through the Financial Management Information System of the Government of Mongolia. It is segregated further by government ministries, agencies etc. The segregated accounts of ministries and other state bodies are not subject to validation from one year to the next. Instead, the Rule on Operation of State Treasury indicates grounds to open or close segregated accounts. Once the Department of State Treasury opens a segregated account as per request and application submitted by the state organizations, it's fully operational until it's closed according to the grounds specified in the Rule on Operation of State Treasury. As stated in paragraph 36.1 of Article 36 of the Budget Law, the State treasury system consists of the central state treasury (Department of State Treasury), the state treasury of Ulaanbaatar city, its districts, aimags and soums, as well as state accountants. At the end of the budgetary year, the State Treasuries withdraw any outstanding balances from the segregated accounts and fund them back at the end of the next year according to the approved budget by the Parliament. The budgetary year in Mongolia starts on 1<sup>st</sup> January and ends on 31<sup>st</sup> December of that calendar year.

Paragraph 5.1 of Article 5 of the Rule on Operation of State Treasury provides the following grounds for opening segregated accounts:

1. Income and expenditure accounts of state or local government bodies and income account for a new type of taxes that are included in the budget that year;
2. State Treasury cashier accounts for the purpose of managing cash payments of public organizations;

3. Temporary accounts at the central state treasury for the purpose of recording income transferred with discrepancies in account holder name and/or number;
4. Income and expenditure accounts of soums which are newly applied for connection to the Financial Management Information System of the Government.

The above accounts can be opened by the Department of State Treasury once the applicant-government organization submits its request along with the required documents specified by the Rule.

#### Preparation of financial reports:

Each general accountant of the public bodies is obliged to draw up quarterly, biannual and annual financial reports according to the timeline specified in the Law on Budget. The procedures are as follows:

According to paragraph 8.9 of Article 8 of the Law on Budget, every direct budget governor shall submit its quarterly performance report to the upper-level budget governor within the 15<sup>th</sup> day of the first month of the next quarter and its annual performance report to the state audit body within 25<sup>th</sup> January of the next calendar year. The audited annual performance report should be submitted to the upper-level budget governor by 25<sup>th</sup> February of the year.

The central budget governor shall submit its biannual performance report to the general budget governor by 25<sup>th</sup> July of that year and its annual performance report to the state audit body by 5<sup>th</sup> March of next year. The audited performance report shall be submitted to the upper-level budget governor by 25<sup>th</sup> March.

The State Treasury of soums and districts shall compile and submit biannual performance reports of their respective level to the upper-level general budget governor by 25<sup>th</sup> July and their annual performance reports to the state audit body by 5<sup>th</sup> March of the following year. The audited performance report shall be submitted to the upper-level general budget governor by 25<sup>th</sup> March.

The general budget governors of aimags and the capital city shall submit their performance reports to the state audit body within 1<sup>st</sup> April of the following year, and the audited report shall be submitted to the Ministry of Finance within 20<sup>th</sup> April of each year.

The general budget governors shall submit their biannual to the Ministry of Finance by 15<sup>th</sup> August of that year and their annual performance reports to the central state audit body by 25<sup>th</sup> April of the following year. The audited report shall be submitted to the Ministry of Finance by 25<sup>th</sup> April of each year.

The Ministry of Finance shall compile the biannual integrated performance report by 25<sup>th</sup> August of each year.

The Ministry of Finance shall compile an annual integrated performance report by 15<sup>th</sup> April of the following year and submit the report to the central state audit body. The central state audit body shall audit the report within 5<sup>th</sup> May.

Legal entities wholly or partially owned by the central or local governments shall submit respective annual performance reports to the state audit body by 15<sup>th</sup> February and deliver the

audited report to the respective general budget governor and the Ministry of Finance by 15<sup>th</sup> March.

The Ministry of Finance shall compile and submit the integrated budget performance report and financial report of the Government to the central state audit body within 10<sup>th</sup> May each year.

The central state audit office shall audit the integrated budget performance report and the financial report of the Government within a period of one month and submit the audited reports to the Government and the Parliament.

The Government shall submit the audited integrated performance report and the financial report to the Parliament within seven working days after the audit.

The Parliament shall discuss and adopt the integrated budget performance report in its Spring Session.

The Law on Budget provides that the budget governor consists of three levels of the governors: general budget governor, central budget governor and direct budget governor.

Paragraph 14.2.1 of Article 14 of the Law on Budget states that the general budget governor shall draw up a draft budget within the limits of the annual budget.

Paragraph 4.1.36 of Article 4 of the Law on Budget also defines that a general budget governor is a person who is mandated to prepare a draft of the budget related to its function, allot the adopted budget according to legislations, and monitor, manage and report the budget implementation.

Paragraph 4.1.37 of Article 4 of the Law on Budget provides that the central budget governor is a person who is in charge of preparing the draft of the budget set by the general budget governor, allocating the budget to the direct budget governor, and monitoring, manage according to the legislation and report its implementation.

Paragraph 4.1.38 of Article 4 of the Law on Budget further stipulates that the direct budget governor is a person who is obligated to prepare a draft budget set by the general budget governor or central budget governor, manage the budget according to the legislation, and report the performance.

The general accountants or senior accountants of public organizations are entitled to secondary signatures, while budget governors are entitled to first signatures regarding financial or accounting documents. Therefore, budget governors have the final say on decisions and/or judgements regarding the preparation of the draft budget or allotting the adopted budget into categories for different purposes. Given the above-mentioned excerpt of the law, it can be said that the budget governor of each level is mandated to propose the draft budget related to his/her scope of duties to the next level of the budget governor. The budget proposals are then submitted to the Ministry of Finance for review. The finalized and consolidated draft budget is handed to the Government for Parliamentary discussion and adoption. The management account is prepared according to the procedure stipulated in the section above.

Pursuant to article 12.1.6 of the Budget Law to monitor the budget execution of the General Budget Governor, the Internal Audit Committee of MOF approves the plan for yearly internal audit and

financial control activities and the Financial Control and Risk Management Department of the MOF conducts the audits and controls for the budget and financial execution of budgetary organization according to the plan.

According to article 69.1 of the Budget Law, “Each general budget governor shall establish an internal audit unit and employ an internal auditor aimed at controlling enforcement of legislation, conducting the 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”, the internal audit units were established in each budgetary organizations. The units are working in accordance with article 11.1.11, “Conduct and manage budget and financial internal audit and inspection”, and article 12.1.16, “Execute internal budgetary audit and inspection functions”, of the Budget Law.

As mentioned before, the Internal Audit Committee of the MOF annually approves plans for internal audit and financial controls. It evaluates the process of corporate governance, risk management and internal control, provides recommendations, and monitors the implementation of recommendations when conducting internal audits for budgetary organizations.

However, when conducting financial controls, the acts and formal demands are provided if there are proven facts that there are inefficient and wasteful use of budget funds. Additionally, in case of deficiencies and misappropriation of the budget, the case is submitted to the related law enforcement agencies for investigation.

The Public Sector Internal Audit Guidance developed in 2019 details each step of risk-based internal audit planning and internal audit phase, as well as methodological chapters on compliance, performance, financial audits and information technology governance, its risk and control assessment, working papers used in the audit process and the assessment of internal control framework.

In accordance with the “Public Sector Internal Audit Guidance”, the audit plan and internal control and risk mapping are being developed.

In accordance with the International Professional Practice Framework and the Public Sector Internal Audit Guidance, the implementation of audit and financial audit recommendations is provided by audited organizations on a semi-annual basis. The Internal audit unit evaluates the implementation and reports the implementation process regularly to the top management.

### **Examples of implementation**

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

#### Subparagraph 2 (a):

Public polls were conducted at 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)

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

Subparagraph 2 (b):

Furthermore, the Law on Glass Accounts was adopted to ensure transparency and transparency of decisions and activities to implement budget management 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 implemented the Law on Transparency of Information and the Right to Obtain Information since 2011.

Subparagraph 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, a property census of state-owned legal entities is carried out by the State administrative body in charge of State-owned policy and regulation in the fourth quarter of the first year of the term of office of the Government.

Subparagraph 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 the administrative organization, approved by Government Decree No. 89, 2017;
- Regulation on monitoring and evaluation of ministry's internal functional departments, approved by State Secretary Order No. 191, 2014.

*(b) Observations on the implementation of the article*

The annual budget is adopted by the Parliament upon a proposal submitted by the Government. Direct budget governors prepare and submit quarterly budget execution reports and financial statements to higher-level budget governors. Annual budget execution reports and financial statements are submitted to the State audit bodies, and audited financial statements are submitted to higher-level budget governors each year (art. 8.9.1 of the Budget Law).

The State Audit Institution oversees the proper planning, allocation, use and disbursement of public finances, budgets and public property.



*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Bidders who submit falsified or misleading information in their bids are sanctioned not to participate in public procurement bids for three years. The state central administrative body in charge of the budget keeps the blacklist of the economic operators sanctioned not to participate in bidding.

According to Accounting law, a business entity or public organization should keep accounting records, financial statements and other related documents for at least 10 years. Under the same law, public officials who breach accounting legislation are held liable as provided for in the Civil Service Law unless the matter constitutes a criminal offence.

**Accounting Law**

Article 11. Preservation of accounting records and financial statements

*11.1. Enterprises and organizations shall keep accounting documents and financial statements for at least 10 years, unless otherwise specified in the legislation on archives and record keeping.*

Article 27. Responsibilities for violators

*27.1. If the act of an official who violates this law is not criminal, he shall be held liable as provided in the Civil Service Law.*

*27.2. Any person or legal entity who violates this law shall be subject to the penalties specified in the Criminal Law or the Law on Violations.*

The documents of financial nature are recorded, preserved and maintained based on the regulations specified in the Law on Archive and Administration of Business Documents, Common Rule for Archive of Institutions, Common Rule for State Archives and Common Rule for Archive and Administration of Business Documents. Any document is classified as “of temporary preservation,” “of permanent preservation,” and “of up to 70 years of preservation”. The documents relating to the class “of temporary preservation” and “of up to 70 years of preservation” are not accepted by the state archive. Initially, all classes of documents are preserved at the producing institution. Once the statutory period of preservation expires, as stated by Paragraph 27.1 of the Law on Archive and Administration of Business Documents, the class of documents subject to “permanent preservation” are transferred from the producing institution to the state archive. The transfer is carried out according to the decision discussed and made by the ad hoc meeting and the ledger, which specifies the documents in detail.

The statutory documents are varied by the type of the institutions. For instance, ministries and government agencies are obliged to preserve the documents for a period of 16 years according to the Law on Archive and Administration of Business Documents, which entered into force on 1<sup>st</sup> December 2020. The rule and regulation governing preservation is the same across the board, whether in state archives or other institutions.

The Law on Archive and Administration of Business Documents<sup>27</sup> provides for various periods for preserving accounting reports and documents.

Article 29 of the Law on Archive and Administration of Business Documents specifies that the government shall protect the stock of the national archive from disaster, felony and other destructive risks.

Moreover, provision 8.1.5 of the Common Rule for Archive and Administration of Business Documents states that “it’s prohibited to alter, change or dispose of the original version of the documents”. Therefore, the documents preserved in the archive are not allowed to leave the building where it has been kept. It’s almost impossible to change or falsify the documents preserved in the archive as when allowing interested parties access to the documents kept in the archive, the materials are handed according to the ledger signed by the parties, and the materials are received after the book of documents is thoroughly checked. The interested parties, such as companies, legal persons and individuals, are all required to sign the Document Use Sheet before handling the documents.

According to Paragraph 10.5 of Article 10 of Law on Archive and Administration of Business Documents, it’s prohibited “to dispose archive documents before scrutinizing the materials as stated by the Law on Archive and Administration of Business Documents”. The retention and disposition schedule is regulated by the Exemplary List of Documents Preservation Period adopted by the head of the General State Archive Office. This list specifies what document falls into which category: “temporary”, “permanent” and “up to 70 years”. Once the period stated in the list expires, the documents are disposed of according to the Common Rule for Archives of Institutions. The separate list of disposable documents is also composed as stated by the aforementioned common rule. The list is updated every 4 years.

There is no rule that regulates the act of preservation of electronic records as well as security measures.

The sanctions are stipulated in Article 50 of the Law on Archive and Administration of Business Documents:

*50.1. If the action of the official violated this Law is of no criminal nature, he/she is punishable by the disciplinary actions (reprimand, cutting the wage up to 30 percent for a period of up to 3 months, dismissal etc.) stipulated in the Civil service Law.*

*50.2. The person who violated this Law is punishable by the Law on Infringement or Criminal Code.*

Article 27. Period of preservation of permanent documents of the state archives fund in the archives of the organization

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<sup>27</sup> Available at: <https://legalinfo.mn/mn/detail/15370>

27.1. The archives of the following organizations shall keep the documents for permanent preservation for the period mentioned below, starting from January 1 of the year following the year in which they were created, and after the expiration of the period, they shall be transferred to the relevant state archives:

27.1.1. Archives of the President of Mongolia and his Office - 20 years;

27.1.2. Archives of the National Security Council - 30 years;

27.1.3. Archives of the State Great Khural and its Office - 40 years;

27.1.4. Archives of the Government and its Secretariat - 20 years;

27.1.5. Archives of the Constitutional Court - 20 years;

27.1.6. archives of courts and prosecutor's organizations - 15 years;

27.1.7. Archives of organizations reporting directly to the National Assembly - 20 years;

27.1.8. archives of ministries and agencies under their jurisdiction - 16 years;

27.1.9. archives of local administrative and self-governing organizations - 8 years;

27.1.10. archives of diplomatic missions working abroad - 5 years;

27.1.11. archives of all types of legal entities with participation of state and local property - 8 years;

27.1.12. Archives of organizations and legal entities listed in Article 28.5 of this Law, except for those specified in Article 27.1 of this Law - 15 years.

27.2. The following documents for permanent preservation shall be kept in the archives of the organization for the period mentioned below, and after the expiration of the period, they shall be transferred to the relevant state archives:

27.2.1. Original copies of relevant scientific, technological and patent documents for legal entities with state and local property participation - 5 years;

27.2.2. Original copies of films, photographs, sound and video recordings produced with state and local budget funds - 1 year.

27.3. After 40 years of preservation of archival documents in the branch archives specified in Article 16.5 of this law, they will be transferred to the state archives.

27.4. If the organization is privatized, liquidated, bankrupt or reorganized in accordance with Article 31 of the Civil Code, the archive documents of the organization shall be transferred to the relevant state archive or to the successor within six months.

27.5. The organization referred to in Article 27.1 of this law shall carry out the process of arranging and transferring archival documents to the state archive with its own funds.

### *(b) Observations on the implementation of the article*

Public officials who breach accounting legislation are held liable as provided for in the Civil Service Law unless the matter constitutes a criminal offence (art. 27 of the Law on Accounting).

Documents of a financial nature are treated on the basis of the regulations established in the Law on the Archiving and Administration of Business Documents, which obliges government agencies to preserve documents for a period ranging from 5 to 40 years, depending on the type of agency or institution (art. 27).

## Article 10. Public reporting

### *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;*

### *(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Mongolia complied with this article of the Convention by Law of Mongolia on the Information Transparency and Right to Information.<sup>28</sup> The law was adopted and came into force on June 11, 2011. The law aimed at regulating relations pertaining to ensuring transparency of the State and the rights of the citizen and legal entities financed by the State and local budget except for armed forces, border and internal troops and intelligence authority to seek and receive information.

Organizations subject to the law were 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, an organization under the scope of this Law were required to take the following measures to ensure its operational transparency:

- 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;
- place the legislations, rules, procedures and guidance on its website and information board in an easily understandable manner and update regularly;
- 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,

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<sup>28</sup> The law was replaced by the Law on Transparency of Public Information adopted on 17 December 2021 (entered into force on 1 May 2022). Available at: <https://legalinfo.mn/mn/detail?lawId=16390263044601>

scholars and citizens, and to incorporate the proposals if such proposals are deemed grounded;

Citizens and legal entities were 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 the organization's lawful interest from the organization specified in 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.

On 17 December 2021, The Parliament repealed the above-mentioned law and adopted its revised version under another name – The Law on Transparency of Public Information.

### **Law on Transparency of Public Information**

#### **Article 1. Purpose of the law**

*1.1. The purpose of this law is to ensure citizens' right to search and receive information in accordance with the grounds and procedures specified in the law, to establish the legal basis of public information infrastructure, to conduct government activities electronically, to keep them open, transparent, and prompt, and to ensure public participation in government activities. is to create control.*

#### **Article 3. Scope of the law**

*3.1. This law does not regulate the relationship related to the disclosure of information designated as state secrets by law.*

*3.2. This law shall regulate relations other than those regulated by the said law, which are related to the public information infrastructure and the conduct of government activities in electronic form.*

#### **Article 6. Responsible for public information**

*6.1. The following organization is responsible for public information /hereinafter referred to as "data responsible":*

*6.1.1. state organization;*

*6.1.2. private legal entity owned by the state or local government, with the participation of state or local government property;*

*6.1.3. a person performing certain functions of a government organization on the basis of law or contract;*

*6.1.4. public radio and television;*

*6.1.5. political party.*

*6.2. The data controller is responsible for collecting, processing and using public information, management, organization and security of information, and taking other necessary measures within the scope of his duties stipulated by the law.*

#### **Article 8. Open information**

8.1. *In order to keep government activities transparent and open, and to create public control over government activities, the data subject's functions, operational strategies, organization, human resources, budget, finance, procurement, services provided, and closed by law, information except those determined to be restricted shall be kept transparent and open.*

8.2. *The data controller shall keep the following information about its functions, operational strategy and organization transparent and open:*

8.2.1. *mission, operational strategic objectives, goals, priorities, measures taken within them, and their results;*

8.2.2. *function, structure, organization, address, location, contact phone number, postal address, social network address for communicating with the public and delivering information;*

8.2.3. *economic and social development indicators, activity reports, monitoring, evaluation, internal audit, financial control reports, acts, verdicts, official requirements, and recommendations of the information debtor's activities;*

8.2.4. *evaluation report on the consequences of law enforcement;*

8.2.5. *development policy and planning document implementation report;*

8.2.6. *laws, government decisions and other legal acts that are in force in our operations;*

8.2.7. *description of the position, the name of the official's father/mother, his/her name, official contact phone number, official e-mail address;*

8.2.8. *reports and news on the resolution of applications and complaints;*

8.2.9. *statistical information on the activities of the responsible branch, unless otherwise specified by law;*

8.2.10. *program of public events to be organized by the respondent.*

8.3. *The Data Controller shall keep the following information about its human resources transparent and open at all times:*

8.3.1. *information about job vacancies;*

8.3.2. *procedure for selection of officials and employees;*

8.3.3. *code of conduct for officials and employees;*

8.3.4. *procedures for monitoring and evaluating human resource strategy and its implementation;*

8.3.5. *measures taken in the field of ensuring transparency of human resources management;*

8.3.6. *the procedure for evaluating the work performance of the civil servant.*

8.4. *The person responsible for the information shall keep the following information about the budget, finance, and purchasing process transparent and open:*

8.4.1. *execution of the previous year's budget, current year's budget, next year's budget draft;*

8.4.2. *budget execution and half-year and full-year financial reports;*

8.4.3. *audit findings on financial statements;*

8.4.4. *the amount of fees, fees, and regulatory service fees to be collected in accordance with the law;*

8.4.5. *budget savings and overruns, explanations of their causes;*

8.4.6. *the name of purchased goods, works and services with the value of five million MNT or more, the amount of financing, the name and address of the supplier;*

8.4.7 *cash flow of income and expenses with the amount of five million MNT or more, excluding salary expenses, for each transaction, along with the content of the transaction and the name of the recipient;*

8.4.8. *Bonds, loans, debentures, guarantees, other similar financial instruments, public and private sector partnership agreements, budgets, property, assets, spending money, any decision to create debts and receivables;*<sup>29</sup>

8.4.9. *maintenance and implementation of the bank account, information on measures taken according to audit reports and recommendations;*

8.4.10. *plans, reports, tender documents, procedures for the procurement of goods, works and services with state and local property funds, tender invitations, criteria for those interested in participating in the tender, brief information about successful and unsuccessful bidders, the grounds and reasons for the selected and unselected laws;*

8.4.11. *reports and verdicts of evaluations and audits and other inspections of procurement;*

8.4.12. *information on the provision of procurement expertise and methodical advice and instructions to the relevant person at the request of the information debtor and ordering organization;*

8.4.13. *list of persons whose right to participate in procurement of goods, works, and services with state and local property assets is restricted;*

8.4.14. *Information about loans and assistance contracts and agreements received by the government from foreign countries and international organizations;*

8.4.15. *state budget, Social Insurance Fund budget revenue, expenditure, investment, and integrated budget indicators;*

8.4.16. *Information on the use of government foreign loans and aid;*

8.4.17. *Government external and internal debt information;*

8.4.18. *state budget saving and overruns, explanations of their causes;*

8.4.19. *monthly report on the implementation of the consolidated budget;*

8.4.20. *budget performance and audited consolidated financial report;*

8.4.21. *information on the government's internal securities issued to finance the budget deficit;*

8.4.22. *list of concession items and amendments thereto;*<sup>30</sup>

8.4.23. *every time a public and private sector partnership agreement is signed, information other than the confidential information of the private sector partner and*

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<sup>29</sup> Developments after the Country visit, as reported by Mongolia: the word "concession" was removed from this section by the law of December 9, 2022, and will be enforced from July 1, 2023.

<sup>30</sup> Developments after the Country visit, as reported by Mongolia: this provision was deemed invalid by the law of December 9, 2022, and will be enforced from July 1, 2023.

*its organization, partnership items, work to be performed, and services to be provided,<sup>31</sup>*

*8.4.24. information on government foreign securities issued for the purpose of financing investment;*

*8.4.25. research and calculation of integrated indicators of the state budget with macroeconomic indicators and other relevant indicators;*

*8.4.26. financing, implementation, progress and results of projects and programs implemented with budget funds and foreign loans and assistance;*

*8.4.27. research and analysis work ordered by the information debtor and its report;*

*8.4.28. others prescribed by law.*

*8.5. The Data Controller shall always keep the following information transparent and open about the services provided within the scope of the law:*

*8.5.1. type of service, settlement procedure, period, documents to be prepared, their model, payment, fees, amount of fee for regulatory services, account information for payment;*

*8.5.2. Reasons and procedures for granting, extending, suspending, revoking, revoking permits, information about granted, extended, suspended, restored, revoked permits, name, address, branch, representative office, permit issued and permit validity period.<sup>32</sup>*

*8.6. In addition to the provisions of Articles 8.2, 8.3, 8.4, and 8.5 of this law, the person responsible for information shall always keep the following information transparent and open:*

*8.6.1. draft laws and administrative norms that are being discussed and voted on by the public, their presentation, relevant studies, and opinions given by other organizations and citizens;*

*8.6.2. list of owned intellectual property rights;*

*8.6.3. information on the progress of decisions on urban and land organization planning and amendments;*

*8.6.4. information on the land owned by the respondent;*

*8.6.5. the name, address, rules, direction of activity of the state-owned or local-owned legal entity, state-owned or local-owned private legal entity, share of capital contributed by the authorized entity, profit and loss report, amount of taxes paid to the consolidated budget, dividends;*

*8.6.6. the structure and composition of the board of directors and supervisory board of the state-owned and local-owned, private legal entity with state-owned and local-owned participation, their members' and executive management's parents' names, their names, and their salaries, bonus amount, official e-mail address, requirements for the management of the legal entity, management selection procedure, selection dates, and information about the participants in the selection process;*

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<sup>31</sup> Developments after the Country visit, as reported by Mongolia: this section was revised by the law of December 9, 2022, and will be enforced from July 1, 2023.

<sup>32</sup> Developments after the Country visit, as reported by Mongolia: this provision was amended by the law of June 17, 2022.



8.6.7. *the amount of taxes and capital contributed to the unified budget and the National Wealth Fund for the legal entity holding a special license to use mineral deposits of strategic importance;*

8.6.8. *information on the use, transfer and privatization of state and local property assets by individuals and legal entities, the use of budget funds and their decommissioning, and the income from decommissioning;*

8.6.9. *information on the assessment of environmental impact that may cause adverse effects and consequences to the environment during the activities, production, and services of people and legal entities, as well as measures to eliminate them, information on the impact on the environment by using subsoil resources;*

8.6.10. *Information about the activities, production, services, techniques and technologies used by the respondent, on the health of people, animals, and animals, and the impact they have on the environment;*

8.6.11. *verdict of the state commission that approved the construction;*

8.6.12. *status of land use certificates, signed agreements, land use payments issued in specially protected areas;*

8.6.13. *In accordance with Article 42 of the Law on Minerals, an agreement signed by a local administrative organization with a license holder on the issue of environmental protection, development of infrastructure related to the use of mines, establishment of factories, and increase of employment;*

8.6.14. *results of arbitration proceedings;*

8.6.15. *Results of dispute resolution proceedings in accordance with petitions, complaints, and requests submitted to the Constitutional Court of Mongolia;*

8.6.16. *political party rules, membership, assets, and information on donations to it;*

8.6.17. *Information about the obligations assumed by the multilateral international agreements signed by Mongolia, reports submitted, recommendations given to Mongolia, and information about the organization responsible for the implementation of the recommendations;*

8.6.18. *information on the price structure of legal monopoly entrepreneurs and the list of dominant entrepreneurs;*

8.6.19. *information about the ultimate owner and ultimate owner of the legal entity;*

8.6.20. *open data in databases where access and use are not restricted;*

8.6.21. *the name of the student's parent/mother, his/her name, country of study, name of the school, major, duration of study, the amount of training expenses financed by the information debtor, implementation of the contract;*

8.6.22. *other information stipulated to be open by law and international agreement.*

8.7. *The openness and transparency of the information is ensured by the following bodies respectively: - the information specified in clauses 8.4.13, 8.4.14, 8.4.15, 8.4.16, 8.4.17, 8.4.18, 8.4.19, 8.4.20, 8.4.21, 8.4.22, 8.4.23, 8.4.24, 8.4.25, and 8.6.7 of this law by the central state administrative organization in charge of finance and budget issues; the information specified in clauses 8.6.9 and 8.6.12 of this law by the central state*

*administrative organization in charge of environmental issues; the information specified in clause 8.6.14 of this law by the Supreme Court of Mongolia; the information specified in clause 8.6.15 of this law by the Constitutional Court of Mongolia; the information specified in Article 8.6.16 of this law by political parties; the information specified in clause 8.6.17 of this law by the central state administrative organization in charge of foreign relations, the information specified in clause 8.1.18 of this law by the state administrative body responsible for competition issues, and the information specified in clause 8.6.19 of this law by the state administrative body responsible for state registration.*

*8.8. The person responsible for the information shall use the website, bulletin board, and other means of information to provide the public with the information to be kept transparent and open as specified in Sections 8.2, 8.3, 8.4, 8.5, and 8.6 of this law.*

*8.9. Unless otherwise specified by the law, the data controller shall issue the reports, news, results, and statistical data specified in clauses 8.2, 8.3, 8.4, 8.5, and 8.6 of this law quarterly, semi-annually, and annually, and within the first month of the next quarter, semi-annually, or year, electronically posted on the page.*

*8.10. Monitoring, evaluation, internal audit, financial control reports, reports, reports, official requirements, recommendations, evaluation reports on the consequences of law enforcement, job vacancies, students at the expense of the data subject, etc. The data controller will upload the information on its website from time to time.*

*8.11. If changes are made to the information, within three working days after the changes are made, the changes will be reflected and the information will be updated.*

*8.12. Regardless of the use of other means of information, the person responsible for the information must operate the website and bulletin board and fully meet the conditions for viewing open information on the website.*

*8.13. In case of disseminating or clarifying open information, the source of the information shall be clearly indicated on the website.*

*8.14. Ensure the correctness of the information posted on the website and keep records.*

*8.15. Detailed relations related to keeping open and transparent information specified in Section 8.4 of this law shall be regulated by the Law on Glass Accounts.*

*8.16. The government shall approve the general procedure for maintaining an online page, uploading and publishing transparent and open information in electronic form, updating and monitoring as specified in Article 8.8 of this law.*

*8.17. A full-time body composed of representatives of the Anti-Corruption Agency, the National Human Rights Commission of Mongolia, the central state administrative organization in charge of e-development and communication, and non-governmental organizations responsible for organizing, evaluating and recommending the implementation of open information transparency. The non-governmental council will work under the central state administrative organization in charge of legal affairs.*

*8.18. The members of the Government in charge of legal, electronic development and communication issues shall jointly approve the composition and working procedures of the council specified in Article 8.17 of this law.*

*8.19. The Government shall approve the procedures for keeping open information transparent and establishing and evaluating transparency criteria.*

## Article 14. Rights and obligations of the applicant

*14.1. The applicant has the following rights to obtain information:*

*14.1.1. choose the form of receiving information;*

*14.1.2. when obtaining open information, do not explain the purpose and reason for obtaining information;*

*14.1.3. get additional explanations on issues related to information;*

*14.1.4. explain the content of the information;*

*14.1.5. to know official sources of information;*

*14.1.6. if it is believed that the right to receive information has been violated, file a complaint with the higher-level organization or official of the person responsible for the information, or, if there is no higher-level organization or official, to the court;*

*14.1.7. to make a request to the relevant data controller to make the information open data;*

*14.1.8. others prescribed by law.*

*14.2. If the applicant believes that his right to information has been violated, he may file a complaint with the National Human Rights Commission of Mongolia.*

*14.3. Persons and legal entities undertake the following obligations regarding obtaining information:*

*14.3.1. comply with the procedure for obtaining information provided by law;*

*14.3.2. not to violate the Constitution of Mongolia, other laws, the rights and legitimate interests of others when exercising the right to information;*

*14.3.3. the information to be obtained should be defined as possible;*

*14.3.4. others prescribed by law.*

Furthermore, Mongolia implements this provision of the Convention through other laws such as the Constitution, Anti-Corruption Law, Conflict of Interest Law, Civil Service Law, General Administrative Law, Law on Glass Accounts, Law on State and Official Secrets, Law on Protection of Personal Information, Law on Secrets of Organizations, Law on Public Procurement.

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 taking part in the decision-making process has the right to obtain information, copy related documents, and see any necessary archive materials and information related to a person 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 government agents and agencies to conduct a hearing to introduce the concept and purpose of a new decision they intend 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 rights, a hearing should be conducted in order to hear a public opinion, ensure the participation of affected parties and reflect their opinions on the act.

## **General Administrative Law**

### **Article 11. Form of administrative activity**

*11.1. Administrative activities are in the following form:*

- 11.1.1. administrative act;*
- 11.1.2. administrative contract;*
- 11.1.3. act of administrative norms.*

*11.2. In cases where the law provides otherwise, the form of administrative activity shall be applied by the administrative body in accordance with that law.*

*11.3. Unless otherwise specified in the law, the administrative body shall choose from the forms of activity specified in Article 11.1 of this law.*

*11.4. In cases where the law does not specify otherwise, and it is not possible to choose from the forms specified in Article 11.1 of this law, the administrative body shall determine other forms of administrative activity by itself.*

### **Article 12. Administrative decision making**

*12.1. "Administrative decision-making process" means the decision-making process specified in Article 11.1 of this law.<sup>33</sup>*

*12.2. The decision-making procedure specified in Section 11.1.3 of this Law shall be regulated in accordance with Chapter Six of this Law.*

### **Article 13. Participant in administrative decision-making**

*13.1. Participant in the administrative decision-making process /hereinafter referred to as "participant" shall mean a person who has submitted an application or request to an administrative organization, a person directly or indirectly subject to the legal effect of an administrative act or an administrative contract, and a person involved in a decision-making process by an administrative organization.*

*13.2. A person whose rights and legal interests are violated due to the administrative decision-making process shall participate as a third party in the administrative decision-making process.*

*13.3. The person whose rights and legal interests may be affected by the administrative decision-making process shall be involved in the decision-making process at his request or by the administrative organization on its own initiative and with the consent of the participant.*

*13.4. In the event that a disabled person participates in the administrative decision-making process, he/she shall participate with the help of an interpreter using signs, gestures, and special characters.*

### **Article 14. Legal capacity to participate in administrative decision-making**

*14.1. Citizens, legal entities and persons authorized by law with legal capacity as provided by law have the right to participate in administrative decision-making.*

*14.2. The participant shall be required to have the legal capacity and competence prescribed by law.*

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<sup>33</sup> Development after the Country visit, as reported by Mongolia; this section was amended by the law of December 23, 2022.

## Article 15. Rights of participants

*15.1. The participant shall enjoy the following rights when communicating with the administrative organization:*

*15.1.1. to obtain information about administrative decision-making in accordance with the law, and to obtain copies of relevant documents;*

*15.1.2. to obtain information about the official authorized to make the relevant administrative decision in accordance with the procedures specified in the Law on Transparency of Public Information, Regulation of Public and Private Interests in Public Service, and Prevention of Conflict of Interest;*

*/This provision was amended by the law of December 17, 2021./*

*15.1.3. to take back certified copies and originals of documents submitted by you;*

*15.1.4. Before making an administrative decision, the participant must provide evidence and submit necessary documents;*

*15.1.5. get information about the project, activity, plan, application and request to be implemented;*

*15.1.6. peruse the records and archive documents of administrative organizations in accordance with the law;*

*15.1.7. to require the administrative organization to perform its duties under the law;*

*15.1.8. other rights provided by law.*

*15.2. The right to obtain information specified in Article 15.1 of this law is limited to information protected by the laws on state and official secrets, organizational secrets, and laws on the protection of personal information.*

*/This section was amended by the law of December 17, 2021./*

## Article 16. Obtaining legal and other professional advice and assistance

*16.1. The participant may receive legal and other professional advice and assistance at any stage of the administrative decision-making process.*

## Article 17. Representation in administrative decision-making proceedings

*17.1. The participant may involve his representative in the administrative decision-making process.*

*17.2. Unless otherwise provided by law, the participant shall be represented on the basis of a power of attorney, and the power of attorney shall meet the requirements specified in Article 64.2 of the Civil Code.*

*17.3. The Participant shall determine the powers of the person represented by the power of attorney.*

*17.4. Participant with some civil legal capacity and incomplete capacity shall be represented by his legal representative.*

*17.5. If an authorized representative is appointed in the administrative decision-making process, the administrative body shall cooperate with him, and if the participant is obliged to participate in accordance with the law.*

The Law on Public Hearing was adopted in 2015 and entered into force in January 2016. This law aims 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, collect the supportive or counter statements regarding any significant circumstances or facts that need to be considered in the 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 the authorities or their respective officers exercise such listening or collecting of statements.

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 hearings:

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

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

Furthermore, it has already been more than ten years since the [www.legalinfo.mn](http://www.legalinfo.mn) website started publishing Mongolian laws, orders of the Parliament and Government, decisions of the Constitutional court, legal acts of government agencies that set out public norms and other legal information. The website was 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 also publishes administrative norms and regulatory acts on paper. Draft laws submitted to the Parliament are available on [www.parliament.mn](http://www.parliament.mn). Moreover, every state and government body publishes the information allowed by law on their official websites.

### *(b) Observations on the implementation of the article*

Mongolia enacted the new Law on Public Information Transparency in 2021. The Law applies to all organizations financed by the State and local budgets, including political parties but excluding the armed forces, border and internal troops and the intelligence authority. Organizations subject to the Law are obliged to ensure the transparency of information pertaining to their operations, their human resource management, their budget and financial management and their procurement activities (art. 8.1).

In cases where the right to receive information has been violated, citizens and legal entities can file a complaint with a higher-level organization or official or, if there is no such organization or official, with the court (art. 14.1.6 of the Law on Public Information Transparency).

Pursuant to Article 15 of the General Administrative Law, persons who submit a request to an administrative organization, who are the subject of an administrative act, or who are affected by the decision-making process of an administrative organization are entitled to access information on the administrative decision-making process and to obtain copies of relevant documentation.

*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*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

One of the goals of the Government of Mongolia between 2008-2012 was to establish a one-stop shop, Joint Service Centre of the Capital City, for government services in order to eliminate bureaucracy, centralize the delivery of public services, work closely with citizens, save time, money and effort, and provide inclusive service. Since 2016, 6 one-stop service shops have been operating in the capital city. Each one is obligated to provide over 632 government services of 53 agencies to the citizens.

The government 11-11 call center is a hotline to receive citizens' feedback, requests, and complaints and respond to/resolve them. They publish 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, improve their quality and efficiency, and strengthen public servants' accountability. In order to implement this goal, a law, to decrease the number of special licenses, and eliminate any bureaucracy in obtaining such licenses, is being drafted.<sup>34</sup>

Furthermore, with the purpose of providing 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" and Resolution No. 220 of 2019 on "Procedural rules on exchanging information, collecting database, 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 of simplifying administrative procedures: State Registration Code (set of laws) was amended in June 2016, thus enabling citizens to access an electronic database of state registries on the property, legal persons and other related information. For instance, the Registry of Legal Persons is now available to the public, and citizens can obtain some services, such as selecting a name for his/her company electronically. For further information, please take a look at <https://burtgel.mn>.

Public service electronic machines (TUTS machines): There are 77 TUTS machines across the

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<sup>34</sup> Developments after the Country visit, as reported by Mongolia: Law on Permission was adopted on 17 June 2022 and entered into force on 1 January 2023. Available at: <https://legalinfo.mn/mn/detail?lawId=16530780109311>

capital city. Each machine can provide 28 types of public service, and receive feedback and requests. Citizens can send their requests and feedback through the machine. They also can get certificates and references on legal persons, citizens registry, court orders, and make payments for getting public service. More information:

<https://tutsmashin.gov.mn>

Moreover, State Registry Agency works with Mongol Post LLC to provide a service called “Hand to hand” delivery, whereby it can deliver regular passports, certificates of legal persons, rules, related documents and certificates 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 has been introduced where the Agency can scan a citizen’s fingerprint and print out his/her personal information so that a citizen can check the information and sign. This service saves time for citizens.

The Governor’s Office of the Capital City introduced a centralized portal system in which citizens can get information on the public services that the 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/#/welcome>

#### *(b) Observations on the implementation of the article*

Mongolia has introduced an e-government platform, which enables citizens (currently limited to residents of Ulaanbaatar) to access over 600 government services online.

**It is recommended that Mongolia consider making the e-government platform available to all citizens, including those living outside Ulaanbaatar, to the extent possible.**

#### *(c) Successes and good practices*

There is an e-government platform that provides access to over 600 public services.

#### *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.*



*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

According to Article 26 of the Anti-corruption Law and 8.8.2 of the National Anti-Corruption Strategy, the IAAC is obligated to report annually briefing on the 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 and 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 violations 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, Children's Integrity Survey, and other international corruption survey results on Mongolia;
- Information on the implementation process of the National Anti-corruption Strategy.

Moreover, pursuant to the 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 and establish a corruption index;

**Anti-Corruption Law**

Article 26. Supervision of the operation of the Anti-Corruption Agency

*26.1. The State Great Khural shall report annually briefing of the Independent Authority Against Corruption on corruption condition and implementation of legislation on corruption. /This article is reproduced by Amendment Law of 29 May 2008/. [...]*

The Research and Analysis Division of IAAC is tasked with conducting the abovementioned surveys. The division 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 has become annual. This assessment is comprised of three types of sub-assessment, including external evaluation (from people who received public service), internal evaluation (from a public servant who provided public service) and evaluation from the people who take part in the policy-making process (from experts). Assessment is evaluated from 0-100 points, and 100 points

illustrate the highest level of integrity. In 2015, 62 organizations, and in 2016, 60 organizations took part in the assessment. In 2018, 62 public institutions were 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 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 has been conducted yearly since 2008. The Survey on Corruption Perception of Political and Law Enforcement Agencies was carried out by the IAAC in 2017. The survey respondents were the officials representing public and judicial authorities, media, political parties, NGOs, business communities and other research organizations.

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

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

Furthermore, the Methodology for Corruption Risk Assessment was renewed and approved by the 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 the 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 further risks. Results of the assessment are delivered to each organization.

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

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

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

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

### *(b) Observations on the implementation of the article*

Pursuant to article 26 of the Anti-Corruption Law, IAAC reports annually to the Parliament on the implementation of anti-corruption legislation and on general levels of corruption in Mongolia. These reports are publicly available, and they include an overview of violations detected in public bodies and the results of surveys conducted by IAAC on, for example, the scope, forms and causes of corruption.

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

### *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.*

### *(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

#### Amendments to the Constitution of Mongolia

The Parliament of Mongolia amended the Constitution of Mongolia in 14 November 2019. Notably:

1. The judicial system consists of the Supreme Court, provincial and capital city courts, Region, inter-region, and district courts. Specialized courts such as criminal, civil, and administrative courts may be formed. The activities and decisions of these specialized courts are exclusively under the supervision of the Supreme Court. /Article 48-1 of CM/
2. Five members of the Judicial General Council shall be elected from within judges, whereas the remaining five members shall be appointed through open selection. The members are appointed for only one term period of 4 years without the possibility for extension and renewal, and the head of the Council shall be elected from among the members. The Council shall send the report on activities ensuring the independence of judges to the Supreme Court of Mongolia. The breakdown of the Council, procedure on activity, requirements for members and procedure for appointment shall be determined by the law. /Article 49-5 of CM/
3. The Judicial Disciplinary Committee in charge of suspending and dismissing judges from their positions and imposing other disciplinary sanctions shall be run according to the justifications and procedures as stated by the law, and its mandate, structure, operational procedures, requirements for members and procedure on appointment shall be determined by the law. /Article 49-6/

In line with the aforementioned amendments to the Constitution of Mongolia, the Government of Mongolia submitted the draft Law on Courts to the Parliament on 10 April 2020, integrating the previously pursued Package Law on Court, which includes Law on Courts, Law on Legal Status of a Judge, Law on Judicial Administration, Law on Legal Status of Juries into a single law. The draft law was adopted on 15 January 2021 and enforced on 01 March 2021.

#### Judicial system of Mongolia:

According to Paragraph 13.2 of Article 13 of the Law on Courts, the court system of Mongolia shall be independent in terms of organization and consists of the Supreme Court, provincial and capital city court, soum or inter-soum and district courts.

As of now, as stated in Law on Establishing Court adopted on June 19, 2015 (as amended on May 13, 2015 and June 21, 2018, respectively), there is 1 court of cassation instances (Supreme Court of Mongolia), 26 courts of appellate instances (3 criminal courts, 3 civil courts, 19 criminal and civil court, 1 Administrative court), 90 courts of first instances (30 criminal courts, 30 civil courts, 8 criminal and civil courts, 22 administrative courts), a total of 117 courts are operational.

Furthermore, first-instance and appellate-instance courts may be established by applying district principles. In establishing courts by a district system, the size of the territory of the relevant jurisdiction, the number of populations, types and quantities of cases adjudicated must be taken into account. It must focus on ensuring citizens' rights and making judicial services accessible to citizens.

#### Rules concerning the selection of judges:

According to the Constitution of Mongolia and the Law on Courts, the Judicial General Council is mandated to organize action to solicit, select and nominate judges among lawyers pursuing the principle of open, transparent, impartial selection and the rule of law. It also is mandated to develop and endorse procedures for requirements and conditions for the selection of a judge, as well as its evaluation.

Article 51-3 of the Constitution of Mongolia provides that “a Mongolian national of thirty-five years of age with higher education in law and a professional career of not less than 10 years may be appointed a judge of the Supreme Court. A Mongolian national of twenty-five years of age with higher education in law and a professional career of not less than 3 years may be appointed a judge of the other courts”. The Law on Courts further sets the following requirements for the candidates for judges:

1. no proven criminal record;
2. not having status of accused by the time that is nominated for a judge;
3. have a formal verdict from a qualified medical doctor certifying that candidate has no disease that might limit competency to work as a judge and no mental disorders;
4. be certified for professional work as a lawyer;
5. have adequate knowledge, competency and ethics to work as a judge.

A candidate for a judge of an appellate instance court shall have minimum 6 years of experience working as a primary instance judge, in addition to the aforementioned requirements. However, a Supreme Court justice must meet a minimum of one of the following requirements in addition to the requirements mentioned above:

1. minimum 10 years of work experience as a judge;
2. minimum 10 years of work experience as a prosecutor or advocate;
3. minimum 10 years of experience of teaching law at an accredited law university.

An exam for judicial candidates consists of sections, including knowledge of the law, skills, qualification, ethics and behavior tests. A candidate that earns 50 or higher points in the exam that

tests the candidate's legal knowledge and skills is eligible for qualification, ethics and behavior tests.

The candidates who successfully passed the legal knowledge and skills exam are allocated to the Judicial General Council members (hereinafter referred to as Member-Rapporteur), striking the balance of numbers. Member-rapporteur shall scrutinize documents of the applicant, experiences of adjudication and other work, quality of cases adjudicated (for a candidate that previously worked as a judge), opinions received from the public and findings of an interview with candidate and other persons, and prepare a report on the qualification, ethics and behavior of the candidate. The report shall be presented to the Council members and its session.

The Judicial General Council shall submit a proposal for the appointment of judges, equal to the number of positions announced, for first and appellate instance courts following the ranking according to scores for each test- legal knowledge and skills, qualification, ethics and behavior, directly to the President and proposal for appointment of justices of Supreme Court to the President through State Great Khural, respectively, within five working days after informing to public. Within 14 days, President shall appoint first and appellate instance judges in response to a proposal from General Council and cassation instance justices in response to proposal from State Great (Ikh) Khural.

If it is deemed that the candidate proposed by General Council does not meet the conditions and requirements stated in above, the President shall notify the Judicial General Council in formal letters.

#### Career of a judge:

As for career opportunities, the Constitution of Mongolia and the Law on Courts provides a promotion path for a judge from first instance court to appellate instance court, from appellate instance court to cassation instance court. The related requirements and criteria for promotion are also stipulated in the law. Article 51-3 of the Constitution of Mongolia states, "A Mongolian national of thirty-five years of age with higher education in law and a professional career of not less than 10 years may be appointed a judge of the Supreme Court. A Mongolian national of twenty-five years of age with higher education in law and a professional career of not less than 3 years may be appointed a judge of the other courts." Furthermore, the Law on Courts provides that a judge of an appellate instance court shall have minimum 6 years of experience working as a first instance judge, whereas the Supreme Court justice must have a minimum 10 years of work experience as a judge etc.

#### Organization of a court:

The courts of all instances consist of Chief Justices and judges. A Chief Justice shall chair a court. According to paragraph 25.1 of Article 25 of Law on Courts, Supreme Court shall be the supreme judicial body of Mongolia and serve as cassation instance court. The Supreme Court shall have specialized chambers in criminal, civil and administrative cases for adjudicating cases by type. It should have a Chief Justice and 24 justices.

Moreover, the law also states that the appellate instance court shall consist of provincial and capital city courts and the appellate instance administrative court. The Appellate instance court may be established by district principle. It also may have specialized chambers for the types of adjudication.

Chamber shall be established by a decision of the Supreme Court, grounded on a proposal from a Consultation session of the respective court, and the Consultation section shall endorse its judges.

The law further states that the court of first instances in soum and inter-soum, district, provincial and capital city shall implement first instance court proceedings in its territory. The first instance court may be established by district principle and may have chambers specialized in adjudication types. The chamber shall be established by a decision of the Supreme Court, grounded on a proposal from the Consultation session of the respective court, and the Consultation section shall endorse its judges.

#### All-Judges Forum:

Forum of all judges of all instance courts, the All-Judges Forum, is convened every two years. The Forum shall resolve the following issues:

1. elect or remove judge members of the General Council and Disciplinary Committee;
2. submit proposals on improving legislation that the judicial branch must comply with to Supreme Court;
3. hear activity reports of the Judicial General Council and Disciplinary Committee;
4. endorse common procedures for receiving reports, complaints and requests, stated in paragraph 19.2.5 of this law, allocating cases and lottery/random appointment of judge and panel for adjudication of cases;
5. discuss other issues related to judicial operations and issue recommendations.

#### Statistics:

As stipulated by Resolution No. 42 on endorsing positions of judges adopted by the Parliament of Mongolia on May 13, 2022, a total of 730 positions were allotted to the court system, including 549 positions for the court of first instances, 159 positions for the court of appellate instances and 22 positions for the court of cassation instances. As of May 20, 2022, a total of 506 judges are employed by the judicial system, including 386 judges for courts of first instances, 98 judges for courts of appellate instances and 22 judges for the court of cassation instances.

As per the 2021 report on adjudication statistics, in the first instances level, a judge of the criminal court of the district handles 97.3 cases, a judge of the civil court of the district handles 322.6, a judge of the criminal court of inter-soum handles 77.4 cases, a judge of the civil court of inter-soum handles 237.4, a judge of inter-soum handles 110.2 cases, a judge of the administrative court of first instance handles 25.6 cases respectively on average annually. A judge of the criminal and civil court of the appellate court adjudicates 56 cases, whereas a judge of the administrative court of appellate instances deals with 62.2 cases on average, respectively, in a year.

Table: Number of judges indicted or convicted for corruption crime

№	Year	Number of judges indicted/convicted for corruption offence
1	2019	0
2	2020	2
3	2021	0

### Judicial Disciplinary Commission:

Following the adoption of the 2021 revised Law on Courts, a new Judicial Disciplinary Commission was established under this law, replacing the Ethics Committee. Only for the first five months of its operation, as at the moment of the country visit, the Commission received 440 complaints related to the conduct of the members of the judiciary, and 100 were considered, while 30 judges were sanctioned for disciplinary violations.

This Commission is an independent constitutional body and is not related to the National Judiciary Council. It has a hybrid composition with 9 full-time members: 4 judges elected by the Judges Forum (a non-formal structure that meets twice a year), and 5 lawyers appointed by the Parliament. The Commission's decisions are deemed final, although they can be appealed before the Supreme Court only on 2 limited procedural grounds. The Commission oversees the conduct of all the judges - the members of the judiciary. Each complaint is assigned to one member of the Commission. That member does not participate in the decision-making process. A Panel of 3 members then reviews and decides each disciplinary case (1 judge + 2 lawyers or 1 lawyer and 2 judges). Regarding the publicity of the decisions of the Commission, some are public, and some are not.

Paragraph 56.1.3 of Article 56 of the Law on Court states that “In case of judge’s disciplinary misconduct, Disciplinary Committee shall cut the salary of judge for up to 20% for up to 6-month period. Paragraph 56.8.1 of Article 56 of the law also states that “if a judge committed the said disciplinary misconduct more than 5 times, he/she shall be considered resigned and Disciplinary Committee shall issue its decision.

The sanction of salary reduction is the type of disciplinary action not only stated in Law on Court of Mongolia but also included in Law on Labor and Law on Civil Service, respectively. The lawmaker deemed sanctions of salary reduction as not having a significant effect that would push a judge to commit the corruption offense, and thus included in the law.

### **Law on Courts**

#### Article 56. Disciplinary penalties/sanctions imposed on judges

*56.1. In case of judge’s disciplinary misconduct, Disciplinary Committee shall impose one of the following sanctions:*

*56.1.1. closed warning;*

*56.1.2. open warning;*

*56.1.3. cutting salary for up to 20% for up to 6-month period;*

*56.1.4. suspend the rights of the judge for up to three-month period and assign to attend in training;*

*56.1.5. remove from position.*

*56.2. No disciplinary sanction shall be imposed on a judge if one year passed since detection of disciplinary misconduct, other than those stated in paragraph 56.1.5 of this law and if two years passed after the misconduct perpetration.*

56.3. *No disciplinary sanction shall be imposed on a judge if two years passed since detection of disciplinary misconduct, stated in paragraph 56.1.5 of this law and if five years passed after the misconduct perpetration.*

56.4. *With opening a disciplinary case against a judge, the limitation period shall, stated in paragraphs 56.2 and 56.3 of this law, shall cease.*

56.5. *Judge that is imposed with penalties stated in paragraph 56.1.4 of this law shall be 50% of the base salary.*

56.6. *Principles, set forth in Article 8 of the Civil Code, shall be complied with in defining and counting the period stated in this law.*

56.7. *Disciplinary penalty consistent with the elements, scope, seriousness and consequences of disciplinary misconduct, and personal behavior of the defendant judge shall be imposed.*

56.8. *In case that the following grounds are found, it shall be considered that the judge resigned and Disciplinary Committee shall issue its decision:*

56.8.1. *judge committed disciplinary misconduct, stated in paragraphs 56.1.1 and 56.1.2 of this law, more than 10 times or misconduct stated in paragraphs 56.1.3 and 56.1.4 more than 5 times, and imposed with disciplinary penalties, respectively;*

56.8.2. *court decision convicting the judge guilty for crime becomes legally binding and valid.*

56.9. *If the Disciplinary Committee removes a judge from the position, it shall be presented to the President.*

#### Article 57. Imposing disciplinary penalties to a judge

57.1. *Following disciplinary sanctions shall be imposed on judges committing disciplinary misconduct in accordance with paragraph 56.7 of this law:*

57.1.1. *closed or open warning for misconducts, specified in paragraphs 50.1.5, 50.1.21, 50.1.34, 50.1.35, 50.1.36, 50.1.37, 50.1.38 and 50.1.40 of this law;*

57.1.2. *closed or open warning or up to 20% salary cut for up to 6-month period for misconducts specified in paragraphs 50.1.13, 50.1.14, 50.1.20, 50.1.25, 50.1.29, 50.1.32, 50.1.33 and 51.1 of this law;*

57.1.3. *closed warning or up to 20% salary cut for up to 6-month period for misconducts specified in paragraphs 50.1.3, 50.1.4, 50.1.9 and 50.1.28 of this law;*

57.1.4. *open warning or up to three-month suspension of judge's rights and assigning to attend in a training for misconducts specified in paragraphs 50.1.18 and 50.1.19 of this law;*

57.1.5. *open warning or salary cut by up to 20% for up to six-month period, or up to three-month suspension of judge's rights and assigning to attend in a training for misconducts specified in paragraphs 50.1.22, 50.1.26 and 50.1.31 of this law;*

57.1.6. *salary cut by up to 20% for up to six-month period, or up to three-month suspension of judge's rights and assigning to attend in a training for*



*misconducts specified in paragraphs 50.1.15, 50.1.17, 50.1.30 and 53.1 of this law;*

*57.1.7. closed warning or open warning, or salary cut by up to 20% for up to six-month period, or up to three-month suspension of judge's rights and assigning to attend in a training or removal for misconducts specified in paragraphs 50.1.6, 50.1.10, 50.1.12, 50.1.23, 50.1.39 and 52.1 of this law;*

*57.1.8. salary cut by up to 20% for up to six-month period, or up to three-month suspension of judge's rights and assigning to attend in a training or removal for misconducts specified in paragraphs 50.1.8, 50.1.16 and 50.1.24 of this law;*

*57.1.9. up to three-month suspension of judge's rights and assigning to attend in a training or removal for misconducts specified in paragraphs 50.1.7, 50.1.11 and 50.1.27 of this law;*

*57.1.10. dismissal for misconducts stated in paragraphs 50.1.1 and 50.1.2 of this law.*

The rules on the establishment, composition and operation of the Judicial Disciplinary Commission and procedures for the adjudication of disciplinary cases are established in Chapters 15 and 16 of the Law on Courts.<sup>35</sup>

#### Training course for judges

In Pursuant to Article 48(1) of the Law on Courts, a judge must continuously improve his/her knowledge and take part in related training courses every year. In 2018, Judicial General Council adopted Resolution No 84. Under the resolution, judges must participate in the systematically arranged training courses titled "Constitution and Human Rights" and "Ethics of Judge" every year. IAAC will teach classes on conflict of interest, related rules and regulations and international best practices during the "Ethics of Judge" training course.

#### Prevention from conflict of interest

According to the Law on Courts, a judge is obliged to submit his/her Asset and Income Declaration and Private Interest Declaration **truthfully and accurately** as provided by Anti-Corruption Law and Conflict of Interest Law.

Furthermore, if a judge finds himself/herself in a position suggesting a conflict of interest when participating in litigation, he/she shall refuse to take part in the court session or shall inform the parties involved in the litigation and ensure any party rejects him/her from taking part in the litigation.

The conflict of interest regulation states that the former judge is prohibited from practicing advocacy activities within two years from resignation at his/her request from the office, or he/she is prohibited from practicing advocacy at all if a judge resigns or **retires**.

The law also ensures that any person, including the President of Mongolia, Speaker of the Parliament of Mongolia, Prime Minister, members of the Parliament, central government or local

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<sup>35</sup> Available at: <https://legalinfo.mn/mn/detail?lawId=16106892006021>

government organizations, Judicial General Council, member of the Judicial Disciplinary Committee, or any other institutions or officials are prohibited from interfering in the litigation.

If the person stated in Paragraph 20.2 of Article 20 of the Conflict of Interest Law and paragraphs 11.1.6, 11.1.7, 11.1.8 and 12.1.4 of Civil Service Law holds an official meeting with a judge, the minute must be taken and the approved minute shall be submitted to the official in charge of continental matters of that institution within three working days.

Also, on his/her part, a judge must maintain an incident report on any occasion involving interference from any persons with judges and juries during the litigation process as evidence. Then the Judicial General Council must reach out to the competent authorities regarding acts recorded and attested in the incidence report for further inquiry.

Aside from the incidence report, if a judge meets or contacts persons stated in paragraph 20.2 of Article 20 of Conflict of Interest Law and paragraphs 11.1.6, 11.1.7, 11.1.8 and 12.1.4 of Civil Service Law, and that person himself/herself or through a third party interfered or attempted to interfere or gave direction or order, the judge must make a note containing details of the incident, and must submit to the Judicial General Council in sealed package.

The Judicial General Council approved the “Procedure on Keeping Incidence Report, Making Note and Resolving the Incident” and form for incidence reports, templates for presenting incidence reports to the competent official, record of incidence reports, record on receiving notes and the sample of seal and adopted through its 49<sup>th</sup> decree for 23 September 2021.

## **Law on Courts**

### Article 50. Prohibition of Judges

#### *50.1. Following are prohibited for the judges:*

*50.1.1. misuse the position and powers granted and make benefits for him/herself and others;*

*50.1.2. disclose state confidentiality related to the official duty or informed to him/her;*

*50.1.3. disclose information classified as personal, organizational and official secrets provided to the judge in relation to his/her duties and informed to him/him with trust;*

*50.1.4. publicly express or inform positions on the cases and disputes under adjudication before the formal judicial decision is made;*

*50.1.5. use materials and equipment, designated for official use, for purposes other than exercising the power of a judge;*

*50.1.6. use any information obtained in the course of performing official duties and power for purposes other than performing official duties;*

*50.1.7. take part in, influence, give instruction and guidelines and give comments upfront to the adjudication of other judges in relation to exercising his/her power;*

*50.1.8. receive any assistance/help from case participants, their advocates, legal representatives, other citizens and legal entities, directly or indirectly, get*

*services, obtain preference and discount, pecuniary and other forms of allowance and legally unpermitted awards;*

*50.1.9. be a legal representative of third party and giving legal consulting in cases aside from that the interests of judge itself, or family members, relatives of entities;*

*50.1.10. work without notifying to General Council that the judge has family relationship or is a relative to the court Chief Justice and other judges;*

*50.1.11. run business activities or run through representatives, work in governing structure of legal entities, their association and undertake organization of such activities;*

*50.1.12. Except case relating to agreement as part of international treaties of Mongolia, courts of foreign jurisdiction, international and foreign organizations, teach, conduct research and travel abroad with financing from foreign jurisdiction, international organizations, foreign citizens and stateless persons;*

*50.1.13. receive honorary and special titles, awards, orders and medals from from foreign jurisdiction state, institutions and organizations except scientific titles and awards;*

*50.1.14. receive any titles, awards, orders, medals except formal state awards and medals;*

*50.1.15. be a member of steering structure of foreign and international organizations working in the territory of Mongolia except those agrees with respective court of foreign jurisdiction, international and foreign organizations as part of international treaties of Mongolia;*

*50.1.16. work on duties or positions, which are not relevant to legally set functions, aside from teaching and conducting research work;*

*50.1.17. work in senior and other position in the political institutions, make public speech for political institutions and elections about political candidates, participate in election campaign, give financing/donation to candidates for election;*

*50.1.18. meet and communicate in party to a case without presence of the other party;*

*50.1.19. establish personal relationship in interacting with case participants and other persons that might affect the reputation of court and case adjudication;*

*50.1.20. behave inappropriate in communicating case participants and other person as part of the official functions, or fail to perform duty to cease inappropriate behaviors of others as part of duty ensuring procedures during the trial;*

*50.1.21. use special devices for self-protection, supplied according to law, for non-designated purpose and let others use;*

*50.1.22. intentionally breach sequence and procedures set forth in paragraphs 19.2.2 and 19.2. of this law;*

- 50.1.23. *act or omission violating clear provisions of the law seriously or numerously;*
- 50.1.24. *be absent for work numerously without reasonable cause;*
- 50.1.25. *violate the dates/hours of trials and hearing numerously without reasonable cause;*
- 50.1.26. *violate deadlines for issuing judicial decision, clearly stated in the law, for more than 30 days numerously without reasonable cause or violate once for more than 60 days;*
- 50.1.27. *upper-instance court find that judicial decision was written without rationale/reasoning;*
- 50.1.28. *not recused from trial knowingly ignoring the duty to recuse;*
- 50.1.29. *consume alcohol and narcotics at the work place or during official duties, or arrive under influence of alcohols and narcotics;*
- 50.1.30. *impede in adjudication and investigation of disciplinary cases against a judge;*
- 50.1.31. *discriminate person by the origin, ethnicity, race, language, gender, social origin, property, occupation, position, religion, opinion, sexual orientation, education and disability and make pressure;*
- 50.1.32. *disseminate or post information, opinions, AV records or other forms of information that is contrary to court and judge reputation or could affect court proceedings in using media and social network;*
- 50.1.33. *communicate with other during consultation for rulings and disclose the secret of the consultation room;*
- 50.1.34. *undertake actions that are not related to adjudication, such as using cell phone during trial;*
- 50.1.35. *give assignment that is not relevant to the official duties to court officers and person under his/her supervision;*
- 50.1.36. *make determination/judgment on person's characteristics, ethics, reputation and skills in cases except the cases that judge summoned as witness and gives description for an officer under his/her supervision;*
- 50.1.37. *establish preference to him/herself using judge's document and badge in cases except performing official duties, use and collaterize judge's ID and badge for personal purpose;*
- 50.1.38. *disseminate doubtful understanding on the legally binding judicial decision to other and publicly inform;*
- 50.1.39. *failure to perform obligations set forth in paragraph 45.8 of this law;*
- 50.1.40. *failure to perform obligations set forth in paragraph 66.7 of this law.*

#### Dismissal, Suspension and Transfer:

The judicial Disciplinary Committee determines whether to suspend the statutory mandate of a judge based on a proposal related to his/her prosecution submitted by a competent authority.

Grounded on a proposal from the General Council, the President of Mongolia shall issue a resolution concluding the power of judge pre-term and dismiss from the position on the following grounds:

- judge made a written request for dismissal;
- judge is no more able to perform his/her functions due to health causes;
- transferred, appointed or elected to other positions aside from General Council and Disciplinary Committee;
- exited Mongolian citizenship and received permission for permanent residence in foreign jurisdiction;
- judge is about to be nominated for the Presidential, State Great Khural and aimag, capital city, soum and district Citizens' Representative Khurals;
- judicial decision that limits the legal competence of a judge or deeming as incompetent becomes valid;
- judge deceased or judicial decision deeming as deceased becomes legally valid;
- judicial decision imposing compulsory measures with medical nature becomes legally valid;
- judge reached mandatory retirement age.

In the event that a court is dissolved or re-structured or the number of judges in a specific court decreases, judges may be appointed to work at the understaffed similar instance courts if there is no vacant position at the similar instance court, at the lower instance court, with consent from the said judge.

Also, to improve the knowledge and skills of judges, provide practical experiences on judicial proceedings and balance the workload, judges may be rotated to work at a similar instance court for up to two years, with permission from the judge. The judge shall be given full guarantees to return to the previous court after the expiration of the rotation term.

The Judicial General Council endorsed the 68<sup>th</sup> regulation for the rotation of judges on 23 December 2021.

## **Law on Courts**

### Article 39. Suspending or causing to suspend the power of judge

*39.1. The power/rights of a judge shall be considered as suspended if a judge is elected for the General Council and Disciplinary Committee, and the power shall resume by election of the next member.*

*39.2. General Council shall suspend the power of a judge on the grounds of legally binding judicial decision announcing the judge as missing, if such grounds are cleared, the power shall resume.*

*39.3. Suspension of judge's power on the grounds stated in paragraph 39.1 of this law shall not serve as a ground for cutting judge's immunity, salary, financial and economic guarantees.*

*39.4. In the event that Disciplinary Committee suspends the power of a judge by reviewing a proposal from authorized agency for suspend judge's power in relation to criminal investigation, the decision on suspension shall be presented to the General Council.*

39.5. *In case that power is suspended on the grounds stated in paragraph 39.4 of this law, 90% of salary shall be paid to judge during this period.*

39.6. *If the grounds for suspension, stated in paragraph 39.4 of this law, is denied, Disciplinary Committee shall suspend the power immediately and notify it to the General Council.*

#### Article 40. Termination of mandate of a judge

40.1. *If a judge reaches mandatory retirement age or worked as a judge for 25 years, judge may request retirement.*

40.2. *Grounded on a proposal from General Council, President shall make resolution concluding the power of judge pre-term and dismiss from the position on the following grounds:*

40.2.1. *judge made a written request for dismissal;*

40.2.2. *judge is no more able to perform his/her functions due to health causes;*

40.2.3. *transferred, appointed or elected to other positions aside from General Council and Disciplinary Committee;*

40.2.4. *Exited Mongolian citizenship and received permission for permanent residence in foreign jurisdiction;*

40.2.5. *judge is about to be nominated for the Presidential, State Great Khural and aimag, capital city, soum and district Citizens' Representative Khurals;*

40.2.6. *judicial decision that limits the legal competence of a judge or deeming as incompetent becomes becomes valid;*

40.2.7. *judge deceased or judicial decision deeming as deceased becomes legally valid;*

40.2.8. *judicial decision imposing compulsory measures with medical nature becomes legally valid;*

40.2.9. *judge reached mandatory retirement age.*

40.3. *In the event that suspension of power, dismissal and removal from position on the grounds other than those stated in paragraph 39.1 is found unreasonable/unlawful by authorized agencies, officials or by judicial rulings, the power shall resume and salaries shall be paid retrospectively.*

40.4. *Expiration of terms for Chief Justice and Presiding Justice of a Chamber shall not serve as grounds for expiration of power.*

40.5. *If a judge resigned from position, s/he shall not be eligible to compete in the selection of judges.*

40.6. *In case that Chief Justice of Supreme Court leaves the position at his/her own request, the request shall be submitted to the Consultation of Supreme Court, of the Consultation deems the request and grounded, it shall submit the request to the President.*

40.7 *Chief Justice shall be obliged to publicly announce his/her grounds for the request on dismissal/resignation.*

Article 42. Principles and guarantees of independence of judges

*42.1. Judge, in exercising judicial power, shall be independent from anyone and shall be governed only by the Constitution of Mongolia, laws made in conformity with it, other laws formally published and international treaties of Mongolia.*

*42.2. Independence of judges shall be guaranteed by the Constitution of Mongolia, this law and other laws.*

*42.3. Judges shall be provided with the following guarantees:*

*42.3.1. prohibit limiting, suspending, expiring the power and rights of judge on the grounds other than those specified in the Constitution of Mongolia and this law;*

*42.3.2. prohibit transfer to other positions or other courts, or rotating positions without consent from a judge;*

*42.3.3. be appointed as a judge for unlimited period of terms, and not to be dismissed or removed with initiative from administrative or any third parties, not to be mobilized to military service and other mobilizations;*

*42.3.4. create financial and social guarantees and supplies and welfare systems by this law and other laws;*

*42.3.5. retain the position of a judge in case that judge studies abroad for up to two-year period and conducts research work in order to study at advanced level.*

*42.4. Supreme Court Chief Justice and justices shall exercise the diplomatic immunity during stay abroad or travel overseas.*

*42.5. Anyone that assaults to independence and impartiality of judges and impedes to independent judicial proceedings shall be liable for penalties stated in the law.*

Article 43. Transfer and replacement of judges

*43.1. In the event that a court is dissolved or re-structured or number of judges in specific court decreases, judges may be appointed to work at the understaffed similar instance courts if there is no vacant position at the similar with instance court, at the lowest instance court, with consent from the said judge.*

*43.2. General Council shall submit its proposal on transfer of judges on the grounds specified in paragraph 43.1 of this law to the President. President shall appoint the judge to transfer to other courts within 14 days after receiving the proposal.*

*43.3. For the purpose of improving knowledge and skills of judge, providing with practical experiences on judicial proceedings and balancing the workload, judges may be rotated to work at the similar instance court for up to two-year period, with permission from the judge.*

*43.4. General Council shall endorse regulation for rotation of judges on the grounds set forth in paragraph 43.3 of this law.*

*43.5. Judge shall be given full guarantees to return to the previous court after the expiration of rotation term, stated in paragraph 43.3 of this law.*

### Economic guarantee for judges:

According to the Law on Courts, the amount of salary for the judge shall be adequate to ensure and provide opportunities for living and working financially independent from others, and the amount of salary for the judge shall be adequate to ensure and provide opportunities for living and working financially independent from others.

Furthermore, it is prohibited to reduce the budget items related to salary and amount in endorsing budget for courts. Courts shall have an independent budget, and the State is obliged to provide the court with enabling conditions to undertake its operations non-stop. It is prohibited to reduce current costs in the court budget, making it lower than the previous year's budget. State Great Khural shall set the salary and bonuses, regulation for payment and number of judges as proposed by the Judicial General Council. Supreme Court develops a draft budget for itself, and Judicial General Council develops a draft budget for courts, aside from Supreme Court, for operations and investment and delivers it to the Standing Committee on Legal Affairs of the State Great Khural for review.

After review by the Standing Committee, Supreme Court and General Committee send the final draft budget to the state administrative agency in charge of finance and budget according to law. The cabinet reflects the draft budget of the Supreme Court and other courts as is in the state budget and submitted to State Great Khural.

State Great Khural to hear comments and proposals from Supreme Court and General Council and resolve requests from Cabinet.

### **Law on Courts**

#### Article 46. Economic guarantees of courts and judges

*46.1. Amount of salary for the judge shall be adequate to ensure and provide opportunities for living and working financially independent from others.*

*46.2. Salary for the judge shall consist of the base salary, additional salary for work, for the period in public service and doctoral degree.*

*46.3. State Great Khural shall set the salary and bonuses, regulation for payment and number of judges as proposed by General Council.*

*46.4. It is prohibited to reduce the budget items related to salary and amount in endorsing budget for courts.*

*46.5. Costs associated with official trips/mission, travel, state ceremonies, costs for trips specified in paragraph 15.6 of this law and other expenses related to exercising rights shall be financed by court budget.*

*46.6. In the event that a judge travels to domestic resorts and sanatoriums or his/her or spouse's native province during the annual leave, two-way transportation cost shall be provided once in two years from court budget calculating at the rate of long-distance bus fares.*

*46.7. General Council shall endorse criteria for calculation of judge's workload and bonuses for judges.*

*46.8. Following regulation shall be complied with in developing and approving court budget:*



46.8.1. Supreme Court develop draft budget for itself and General Council develops draft budget for courts, aside from Supreme Court, for operations and investment, and deliver to the Standing Committee for review;

46.8.2. After review by the Standing Committee, Supreme Court and General Committee send the final draft budget to the state administrative agency in charge of finance and budget according to law;

46.8.3. Cabinet reflects the draft budget of the Supreme Court and other courts as is in the state budget and submit to State Great Khural;

46.8.4. State Great Khural to hear comments and proposal from Supreme Court and General Council and resolve request from Cabinet.

#### Article 47. Social security of a judge and his family member

47.1. State shall pay the premiums for judge's life and health insurance.

47.2. Life and health insurance of judge must contain the following:

47.2.1. pay insurance payment equal to past 15-year salaries if judge dies due to damage in health inflicted in the course of performing official duties;

47.2.2. pay insurance payment equal to past three-year salary if judge become unable to perform professional functions due to damage in health in the course of performing official duties;

47.2.3. pay insurance payment equal to past one-year salary if judge is inflicted with damage in health, but the damage does not impede in working capacity and performance of professional functions.

47.3. Insurance reimbursement payment, stated in paragraph 47.2 of this law, shall be paid by insured.

47.4. In case that judge is inflicted with damage in health in the course of performing official duties and loses working capability making him/her unable to perform professional work furthermore, reimbursement equal to 70% of salary as a judge shall be paid per month.

47.5. In case that judge dies in the course of performing official duties, monthly allowance shall be paid to children until they reach 18 and a family member without working capability in addition to insurance payment and other welfare allowance, pension and salaries.

47.6. Maximum retirement age for a judge shall be 60 and of a judge that reached 55 or a judge that worked as a judge for 25 years requests, s/he may retire. If a judge worked as a judge for 30 years and reached 55, judge will retire.

47.7. Affairs related to pension of a judge shall be regulated by this law and annual vacation, additional vacation days shall be regulated by this law and Labor Code. Three working day vacation shall be granted for every 5 years of work as a judge.

47.8. Accommodation of judge transferred or rotated in the local area shall be resolved by General Council in cooperation with the local administration.

47.9. When a judge retires one-time allowance equal to 36-month salary shall be paid.

### Administration of the court:

Article 49-5 of the Constitution of Mongolia states, “Five members of Judicial General Council shall be elected from within judges, whereas the remaining five members shall be appointed through open selection. The members are appointed for a period of 4 years without a second term, and the head of the Council shall be elected from among the members. The Council shall send the report on activities ensuring the independence of judges to the Supreme Court of Mongolia. The breakdown of the Council, procedure on activity, requirements for members and procedure for appointment shall be determined by the law”.

Judicial administration consists of the General Council, its Secretariat, Administration of all instance courts and other units. It performs key functions, including ensuring judicial impartiality and independence, providing information, research, logistics, equipment and arrangement support to judges and panels for adjudication of cases and providing working conditions. In all, 42 judicial administrations are operating in 117 courts of all instances.

Judicial General Council is a central court administration body responsible for guaranteeing the independence and impartiality of the court and judges, soliciting judges among layers and protecting the interests of judges.

The Council, without taking part in the adjudication process, shall perform the following functions:

- ensure the independence of the court;
- supply courts with human resources;
- ensuring impartiality/autonomy of judges and protecting their legitimate interests;
- court financial and economic guarantees;
- providing with information.

### **Constitution of Mongolia**

#### Article 49 [Judges]

*(1) Judges are independent and subject only to the law.*

*(2) Neither a private person nor any civil officer – be it the President, members of the National Parliament, or the Government, officials of political parties, or other voluntary organizations – may not interfere with the judges’ exercise of their duties.*

*(3) A General Council of Courts has the function of ensuring the independence of the judiciary.*

*(4) The General Council of Courts, without interfering in the activities of courts and judges, deals exclusively with the selection of judges from among lawyers, protection of their rights, and other matters pertaining to the ensurance of conditions guaranteeing the independence of the judiciary.*

*(5) The structure and procedures of the General Council of Courts are defined by law.*

### Management and distribution of cases:

According to the Law on Court of Mongolia, All-Judges Forum has a mandate to endorse common procedures for receiving reports, complaints and requests, allocating cases and lottery/random

appointment of a judge and a panel for adjudication of cases, and the more detailed regulation is adopted by the Consultation of Judges, which consists of all judges of that court.

The detailed regulation must ensure conditions for randomly selecting a judge for any given case and complaint without any prior knowledge and must utilize the software for that need that meets the following requirements:

- Court allocates cases, complaints and litigations to judges as soon as it receives them, protects them by disallowing changes in allocation without a decision from the Consultation and must inform case participants when and how the case is allocated;
- Allocation of cases, made by an electronic system, shall only be changed due to recusal, permitted by procedural code or in cases that judge or panel replacement, and change shall be made without human interference, be transparent and documented;
- Furthermore, the regulation shall be disclosed to the public.

Currently, the courts of all instances of Mongolia, including criminal, administrative and civil courts, utilize case distribution software that employs randomness, whereas the Judicial General Council provides a methodology for criminal, civil and administrative case flow pursuant to the law.

## **Law on Courts**

### Article 5. Impartiality and independence of courts

*5.1. Court shall exercise its power without dependence and bias on any person.*

*5.2. It is prohibited to make laws and norm documents affecting the independence of judges and impartiality/autonomy of court.*

*5.3. It is prohibited for all instance judges and Chief Justices attack to the independence of other judges by interfering with the adjudication of cases by other judges, giving instructions or providing guidelines related to a specific case and assigning certain cases to specific judges.*

*5.4. It is prohibited for the court to receive any donations and financial aid from any person aside from equipment, items, loan and aid supplied according to international treaties of Mongolia and received from international and humanitarian projects/programs.*

*5.5. Number of judges in all instances shall adequate enough to ensure independence of judges and judicial impartiality and to implement the judicial power.*

*5.6. Court shall have independent budget and state is obliged to provide court with enabling conditions to undertake its operations non-stop. It is prohibited to reduce current costs in the court budget making it lower than the previous year budget.*

*5.7. Court budget shall consist of the budgets of Supreme Court, provincial and capital city court, inter-soum and districts courts, specialized courts, Judicial General Council*

*(hereinafter referred to as General Council) and Judicial Disciplinary Committee (hereinafter referred to as Disciplinary Committee), respectively.*

*5.8. Court administration- responsible for ensuring normal and non-stop judicial operations, providing support, ensuring security and providing with research and information- shall operate and affairs pertaining to its legal status shall be regulated by this law.*

*5.9. Courts shall have their premises; and court and court administration premises shall be protected by state.*

*5.10. It is prohibited to undertake any operations aside from judicial operations in the court building.*

*5.11. Judicial sector shall have its development policy and Judicial General Council shall develop draft policy within the scope of existing legislations and submit to State Great Khural based on consultation with the Supreme Court and Cabinet.*

#### Article 19. Conference of judges

*19.1. At the court, Consultation of Judges (hereinafter referred to as Consultation), consisting of all judges of the particular court, shall operate.*

*19.2. Consultation shall discuss following issues:*

*19.2.1. unless otherwise stated in the law, set internal arrangement and regulation for the court aside from adjudication of cases;*

*19.2.2. establish sequences for chairs of trials;*

*19.2.3. deliver proposal on judicial qualification training to the Institute, stated in paragraph 24.1 of this law;*

*19.2.4. elect Chief Justice among judges;*

*19.2.5. adopt detailed regulation for receiving cases, claims, litigations and compliant, allocation of cases and appointing judges and panels by draw grounded on common procedures stated in paragraph 19.3 of this law and complying with conditions and requirements specified in paragraph 20.2.4 of this law;*

*19.2.6. access to information stated in paragraph 17.1.7 of this law;*

*19.2.7. other rights stated in the law.*

*19.3. Regulation, stated in paragraph 19.2.5 of this law, shall ensure that allocation of judges is made not able to be detected in advance, using random selection and use software that meets following requirements:*

*19.3.1. court allocates cases, complaints and litigations to judges as soon as it receives, be protected disallowing changes in allocation without decision from the Consultation and must inform case participants when and how the case is allocated;*

19.3.2. allocation of cases, made by electronic system, shall only be changed due to recusal, permitted by procedural code or in cases that judge or panel replacement, and change shall be made without human interference, be transparent and documented.

19.4. Regulation stated in paragraph 19.2.5 of this law shall be disclosed to public.

19.5. Consultation shall be ordinary and extra-ordinary, and ordinary consultation shall take place no less than once a quarter while the extra-ordinary shall be held at the request from no less than one third of all judges or at initiative of Chamber or Chief Justice, respectively.

19.6. Judges shall be provided with equal opportunities to access to consultation discussion topic in advance, submit proposals and participate in consultation session, and decision-making process shall be open, quick and rationale.

19.7. Consultation shall establish its procedures itself.

19.8. Consultation shall be considered valid with participation of majority of judges, and issues stated in paragraph 19.2 of this law shall be resolved by majority votes, followed by issuing resolution.

*(b) Observations on the implementation of the article*

The independence of the judiciary is guaranteed in the Constitution (art. 49) and the Law on Courts (art. 42).

There is no specific code of conduct for the judiciary, but the Law on Courts contains detailed regulations on the prevention of conflicts of interest (art. 50). Non-compliance is subject to disciplinary measures (art. 57).

**It is recommended that Mongolia consider adopting codes of conduct for members of the judiciary.**

*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.

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Under the Constitution/Article 56/, Law on Prosecutor /Article 42/, Criminal Procedure Code, Prosecution Service is the organization to provide the implementation of Criminal and Criminal Procedure Codes and acts on behalf of the State independently from any other Governmental branches or influences and participates in judicial proceedings.

## **Constitution of Mongolia**

### **Article 56 [Prosecution]**

- (1) The Prosecution exercises supervision over the inquiry into and investigation of cases and the execution of punishment, and participates in the court proceedings on behalf of the State.*
- (2) The President appoints the Prosecutor General and his or her deputies in consultation with the National Parliament for a terms of six years.*
- (3) The system, structure, and legal basis of the activities of the Prosecution are determined by law.*

## **Criminal Procedure Code**

### **Article 4.1. Power of the prosecutor**

- 1. Prosecutor shall supervise the inquiry and investigative process and take part in a court trial as the public prosecutor on behalf of the state.*
- 2. In the course of supervising the inquiry and investigation process, the prosecutor shall exercise the following power:*
  - 2.1. to supervise whether the process of receiving, inquiry, and investigation of reports and complaints are lawfully carried out;*
  - 2.2. to initiate an inquiry case and transfer the case to the proper jurisdiction of an investigation organization in case a prosecutor discovered statutory element of a criminal offense;*
  - 2.3. to determine the jurisdiction of inquiry and investigation;*
  - 2.4. to resolve request and proposals on protecting the safety of witness and victim;*
  - 2.5. to initiate a criminal case and accuse, or to amend, modify, or annul the order of accusation;*
  - 2.6. to close a case at the inquiry stage, refuse from initiation of a criminal case and accusation, suspend or restore investigation of a criminal case, repeal or re-open a criminal case at the investigation stage, consolidate, and separate criminal cases;*
  - 2.7. to submit a proposal on the arrest of a suspect to the court except for urgent circumstances, and order the investigator to carry our arrest operations;*
  - 2.8. to extend the duration of inquiry or investigation;*
  - 2.9. to submit a proposal on taking restraining measures for the accused, changing the type restraining measures, terminating such measures, or extending the duration of measures to the court;*
  - 2.10. to give permission to the investigator to carry out investigative operations in compliance with this law;*

2.11. to summon witness, victim, civil claimant, civil respondent, expert witness, and defendant by sending summoning order;

2.12. to take the case file for review in order to resolve complaints and requests that were filed by participants under this law;

2.13. to resolve a request about challenging the investigator or the prosecutor supervising the case, to make decisions to transfer the case to another investigator or prosecutor;

2.14. when such complaints fall under his/her power, to resolve complaints about investigator's or the prosecutor's decisions and/or actions, to annul such decisions if considers them as ill-grounded and cease unlawful actions of an investigator or other authorized officials;

2.15. to give an order to conduct investigative operation and ensure its implementation, to give such order to several investigators when necessary, to take part in the investigative operations in-person to perform supervision, and to return the case to the investigator for additional investigation;

2.16. as the upper-level prosecutor, to supervise the decisions and actions made by the supervising prosecutor of a criminal case based on the proposal from the investigator of the same case;

2.17. to forward a criminal case to the court, or to submit a proposal to a court offering adjudication through simplified procedure according to this law;

2.18. to supervise and check inquiry and investigation process wholly or partially, take a case file when necessary to review, and to demand the head of the investigation organization to correct violations found during the supervision and to ensure that such violations are corrected;

2.19. to lodge a lawful complaint against actions of the advocate participating in certain criminal proceedings;

2.20. to request any organization or official to provide the necessary information, study, or documents, to be introduced with them on the spot, or to request them to issue a professional opinion or professional verdict, and to store the case file in the archives;

2.21. to oversee the investigative operations;

2.22. to execute prosecutor's supervision;

2.23. to take preventive measures against illegal actions of prosecutors and investigators which actions may potentially affect participants during the criminal proceedings; and

2.24. other rights specified in this law.

3. The prosecutor shall exercise the rights and obligations stated in this law when taking part in the court trial as the public prosecutor.

*4. The proposal of the investigator concerning an assignment ordered by a prosecutor shall be resolved by the upper-level prosecutor within three working days.*

It consists of the Prosecutor General, two Deputies, and other prosecutors who work in 39 branch prosecutors' offices<sup>36</sup> in the country. Prosecutor General and his/her Deputies are appointed by the President for 6 years with the consent of the Parliament. Prosecutor General appoints the other prosecutors.

Article 45 of the Law on Prosecutor stipulates that in case a Mongolian citizen who is 25 years old and has working experience as a lawyer for at least 3 years, or worked as an assistant to a prosecutor for at least 2 years and has a lawyer's license can be appointed as a prosecutor.

As stated in Articles 3, 4, 5, 6, 7 and 8, the unambiguous application of the law, protection of human rights, freedom and public interest, unified and centralised management, independence, transparency and disclosure are the main principles of the operation of the Prosecution Service.

Mongolia's prosecutors are empowered to control the criminal procedure and execution of criminal sanctions. He/she makes a final decision on whether the case should be transferred to court for trial and participate in the trial as a state accuser on behalf of the State.

The Law on Prosecutor entered into force on July 1, 2017, together with the revised Criminal Procedure Code adopted on May 18, 2017, and included several important provisions to increase the supervision and responsibility of prosecutors.

Moreover, in 2019, Prosecutor General issued directives by 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."

#### Prosecutor's Ethics Council

On January 31, 2018, President of Mongolia approved the Code of Ethics of Prosecutors and Operational regulations of the Prosecutor's Ethics Council by his Order No 10. The Ethics Committee received 20 complaints and requests as of the first half of 2019. This number was 16 in the previous year. A hotline for receiving complaints and information for prosecutor's violations on conflict of interest, ethics, discipline and responsibility started working last year. On March 1, 2018, Prosecutor General approved procedural rules for the hotline operation by his decree No A/20. The hotline, with special number 1800-1919, works every day from 8.30 am to 5.30 pm and aims to receive complaints about prosecutors' ethics and responsibility from citizens and stakeholders of administrative and criminal procedure. If any complaint is received through the hotline, the Internal Inspection Department is responsible for examining it. If the complaint is unrelated to the hotline's jurisdiction, the prosecutor who received a phone call should explain the reason and advise where the complaint should be submitted.

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

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<sup>36</sup> Aside from General Prosecutor's Office, there are 39 branch prosecutors' offices of which 21 in aimags, 8 as inter-soum branches, the Capital City's prosecutor's office, 8 in districts of the Capital and the Prosecutor's Office of Transportation.



a Director of Prosecutor's Ethical Council for final decisions. As a result of the examination by the Internal Inspection Department, 4 prosecutors received disciplinary sanctions. As stated in Article 67, Law on Prosecutor, types of disciplinary sanctions are 1/ warning, 2/ up to 20 percent decrease in salary for up to six months, 3/ downgrade in ranks, 4/ demotion in position, 5/ dismissal. By 2018, Prosecutor's Ethics Council received 38 complaints and transferred one complaint to Prosecutor's Professional Committee. Prosecutor's Ethics Council reviewed six cases to determine whether ethical standards were violated, and in 5 cases, violations were established. The internal Inspection Department of PGO is responsible for making preliminary examinations and submitting them to a Director of the Prosecutor's Ethical Council for final decisions if the Ethical standard is violated.

By the first half of 2018, Prosecutor's Ethics Council received 16 complaints and transferred one complaint to Prosecutor's Professional Council, while the Internal Inspection Department examined other complaints and submitted the results of the examination to a Director of Prosecutor's Ethical Council for final decisions. By the end of 2018, Prosecutor's Professional Council received 7 complaints in total. Of the 7 complaints, 1 was refused to be reviewed since it was not related to the matters under its jurisdiction, while the others were considered, and 3 prosecutors were punished by disciplinary measures because of mistakes in their professional activity.

The 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". The research recommended and identified the necessity of information transparency in the prosecution service. As a result, "Guidance to provide information" was adopted by the Prosecutor General's Order No. A/107, dated September 25, 2017<sup>37</sup>. The guidance regulates issues regarding the provision of information concerning the activities of the prosecution service to the media and the public. In April 2019, the Unit for Public Relations was newly established in the Prosecutor General's Office. Accordingly, the above Guidance was renewed as "Rule for Prosecution Service and Public relation".

The 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 the first half of 2019, organized 55 training courses (256 hours) for 2547 prosecutors, officers, investigators and lawyers.

#### Professional Council of Prosecutors:

According to Article 64 of the Law on Prosecutor, the Prosecutor General approves the composition of the Professional Council of Prosecutors. It has a right to examine and issue an opinion regarding issues related to prosecutors' professional activity. The President of Mongolia approves the rule regulating the operation of the Council.

The Council receives complaints about prosecutor's action, which seems to be considered a mistake in his/her profession. Based on the opinion of the Council, Prosecutor General shall decide whether the disciplinary measure will be used for the prosecutor or not.

The Council consists of the following members appointed by order of the Prosecutor General based on the position in Prosecution Service: Head of the Council - Deputy Prosecutor General, 10 Members including 7 from the Prosecutor General's office, while 1 representative from Province

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<sup>37</sup> "Rule on Public Communication of Prosecution Body" was adopted by Decree No A/63 of 7<sup>th</sup> July 2020. As a result, "Rule on Reporting Prosecution Body to General Public" which was adopted by Decree No A/107 of 25<sup>th</sup> September 2017 was made void.

Prosecutor Offices, 1 represents District Prosecutor Offices and another one is from the Metropolitan Prosecutor's Office.

Department of Internal Inspection:

The Department of Internal Inspection is responsible for taking appropriate measures and cooperating with other organizations to provide security for prosecutors and other staff, preventing ethical violations, receiving complaints related to prosecutors, examining information disclosed through media and social networks, and conducting internal financial audits of branch Prosecutor Offices.

At present, the Department consists of its Head, 1 senior prosecutor, 3 public prosecutors and 1 assistant to prosecutors. The Prosecutor General appoints prosecutors of this Department based on their professional experience and other skills.

The head of the department is one of the Members of the Professional Council of Prosecutors. The Department has a right to examine information related to prosecutor's misconduct spread through social networks and media and introduce the result and suggestion to the Prosecutor General for further steps.

Protection of independence of prosecutors:

Chapter 6 of the Law on Prosecutor manifests guarantees for prosecutors. Accordingly, guarantees are confirmed in legal, economic, social and political terms. Prosecutors enjoy almost the same remuneration as judges.

**Law on Prosecutor**

Article 59. Economic guarantee

*59.1. The expenses of the prosecutor's organization will be financed from the state budget, and the state will provide economic guarantees for its activities.*

*59.2. The state prosecutor general shall plan the operational and investment budget proposal of the prosecutor's organization and submit it to the central state administrative body in charge of financial and budgetary matters.*

*59.3. The prosecutor's salary consists of official salary, special conditions of official work, length of time in public service, rank, and academic grade increase. The State Great Khural shall determine the salary network and the amount of increments for the position of prosecutor.*

*59.4. The prosecutor who is stable and working productively in the prosecutor's organization will be supported to get a discount loan from the government for building or buying a house, for himself or his child's education, and if necessary, provide a loan guarantee.*

*59.5. The State Prosecutor General shall be provided with the following guarantees:*

*59.5.1. to be provided with communication equipment;*

*59.5.2. to receive a salary determined by the State Great Khural in accordance with the rank of a high-ranking official, and to enjoy other necessary provisions;*

*59.5.3. to enjoy diplomatic immunity and privileges during the period of stay or travel abroad.*

*59.6. In the event that a prosecutor goes to a domestic vacation or sanatorium, or to his or her spouse's birthplace, the prosecutor's travel expenses shall be paid in accordance with the law.*

*59.7. State and local self-governing organizations shall provide all-round support for the provision of workplaces, necessary equipment, transportation and technical means, and housing for employees.*

#### Transparency and accountability in the selection and recruitment in the prosecution service:

In order to increase transparency and accountability in the selection, recruitment, training, performance management and dismissal of members, Prosecution Service has a clear policy based on Article 45 of the Law on Prosecutor. It establishes key conditions for how prosecutors shall be appointed. A Mongolian citizen who is 25 years old and has working experience as a lawyer for at least 3 years, or who worked as an assistant to a prosecutor for at least 2 years and has a lawyer's license can be appointed as a prosecutor.

Moreover, Prosecutor General approved a "Guidance for selecting prosecutors and upgrade ranking in Prosecution Service" in 2011 and updated once. In the Guidance, the main criteria for upgrading the rank of prosecutors are: Ranking of the position and working experience in certain positions. Ranking of the prosecutors' positions is divided as followings: A/ public prosecutor at District and Soum /as county/'s Prosecutor Office, B/ public prosecutor at the Metropolitan city Prosecutor's Office, Assistant prosecutor at Province, District and Transportation Prosecutor's Office, Senior prosecutor at Soum, Province and Transportation Prosecutor's Office, C/ Assistant prosecutor at the Metropolitan city Prosecutor's Office, and Deputy prosecutor at Province, District and Transportation Prosecutor's Office, D/ Public prosecutor at the Prosecutor General's Office, Deputy Prosecutor of Metropolitan city Prosecutor's Office, Head prosecutor of Province, District and Transportation Prosecutor's Office, E/ Assistant to the Prosecutor General and Head Prosecutor of Metropolitan city Prosecutor's Office.

Prosecutor can be selected for his/her upgrade if he/she worked from 3 to 6 years in each of the ranking of the prosecutor's position.

In addition to that, it is necessary to check whether he/she got punished by disciplinary measures for his violation of ethical rules, whether he/she committed mistakes in his/her profession, educational level or degree, performance in his/her work, any rewards related to professional work.

As for the training, the Prosecutor General's Office has a Department responsible for training prosecutors and other administrative staff. Plus, Lawyers' Association suggests accredited training for Prosecution Service since it is considered one of the member organizations.

Due to Article 68 of the Law on Prosecutor, the Prosecutor General has a right to dismiss members of the prosecution service. Accordingly, there are 4 main justifications as: 1/ he/she agreed to move to another position or became a candidate to be selected, 2/ because of a health condition, 3/ get to the age to be retired, 4/ Professional Council for Prosecutors got an opinion that his/her professional skill doesn't fit his/her position as a prosecutor.

Describe the procedures for declaring prosecutors' assets and how they are used to avoid conflicts of interest.

Procedure for declaring prosecutors' assets is regulated by Section 3 of Law Against Corruption, Mongolia, while avoiding conflict of interest shall be based on regulations of Section 4, Law on Regulation on Public and Private Interest in Public Service, and Prevention from Conflict of Interest since Prosecution Service also belongs to Public Service.

Accordingly, prosecutors must declare their assets and income annually to IAAC using an online system. In case he/she is appointed to another position, they also must submit updated information. IAAC runs a special portal webpage open to the public and declares public officials' income and assets, including prosecutors.

Article 57 of the Law on Prosecutor says that in case any other influence or pressure appears to the prosecutor with regard his/her professional activity, he/she is obliged to let his/her upper-level prosecutor. “Guidance on Submitting about Influence” was approved by Order of the Prosecutor General dated by 25 July 2017.

IAAC is responsible for submitting the implementation of legislation related to conflict of interest to the Parliament annually by 15 April of each year.

### *(b) Observations on the implementation of the article*

The prosecution service supervises the investigation of cases and participates in court trials on behalf of the State (art. 56 of the Constitution; art. 4.1 of the Criminal Procedure Code). The Law on the Prosecution Office contains provisions, including on salaries and emoluments, to guarantee the independence of prosecutors (art. 59). In 2018, the President promulgated the Code of Ethics for Prosecutors, which requires prosecutors to submit asset declarations (art. 7). Violations of the Code of Ethics are subject to disciplinary sanctions.

## Article 12. Private sector

### *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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Paragraph 1:

The State Policy on Public-Private Partnership was adopted by the Resolution No. 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 affect the 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, the relevant central administrative body will give a license stated in article15 of this law". According to 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 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 or seek a license issued by the former employer; represent any individual or a legal entity before his/her former employer. Also, the issues are 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.

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

### **Law on Accounting**

#### Article 4. Accounting standards

*4.1. Enterprises and organizations shall comply with the following registration standards:*

*4.1.1. International financial reporting standards;*

*4.1.2. International financial reporting standards for small and medium-sized enterprises and organizations;*

*4.1.3. International accounting standards for the public sector.*

*4.2. The classification and criteria of enterprises and organizations that will follow the standards specified in Section 4.1.1 of this law shall be established by the member of the government in charge of finance and registration and publicized in accordance with the law. The following enterprises and organizations must be included in this category:*

*4.2.1. all types of joint-stock companies registered in foreign and domestic stock exchanges;*

*4.2.2. a company that applied for registration on foreign and domestic stock exchanges;*

*4.2.3. Enterprises and organizations licensed in the fields specified in Sections 2 and 6 of Article 8.1, Clauses 8.6, 8.14, and 8.15 of Section 8 of the Law on Licensing, and Section 2 of Article 8.2;<sup>38</sup>*

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<sup>38</sup> Development after the Country visit, as reported by Mongolia; this provision was amended by the law of June 17, 2022.

4.2.4. *enterprises owned by the state or local government, with the participation of those properties;*

4.2.5. *public service organizations engaged in the provision of energy, heat, steam and water;*

4.2.6. *political party, non-governmental organization performing the functions of the state stipulated in Article 19 of the Law on the Government of Mongolia;*

4.2.7. *enterprises and organizations operating in the field of commercial banking and special purpose companies, investment funds, and virtual asset service providers.*

*/This provision was amended by the law of December 17, 2021./*

4.3. *The standards specified in Section 4.1.2 of this Law shall be applied by enterprises and organizations that meet the criteria specified in Section 5.1 of the Law on Small and Medium Enterprises.*

4.4. *The standards specified in Section 4.1.3 of this Law shall be applied by the organization specified in Section 4.1.34 of the Budget Law.*

#### Subparagraph 2 (a):

The State Policy on Public-Private Partnership was adopted by the Resolution No. 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).

#### **Anti-Corruption Law**

##### Article 9. Submitting application, complaint or information

9.1. *A citizen or legal person may submit corruption-related requests, complaints or information to the Anti-Corruption Agency.*

9.2. *The Anti-Corruption Agency shall address and consider such requests, complaints or information according to the respective laws.*

Table 1. Number of complaints and reports issued by private companies and non-government organizations to the IAAC 2020-2021 /by type of complaint and report/.

No	Indicators	2020	2021
1	Complaints and reports, containing issues with criminal nature	84	106
2	Complaints and reports containing conflict of interest and asset and income disclosure	80	53
3	Complaints and reports that don't correspond to competence of IAAC	24	25
4	Complaints and reports containing ethics, red tape and administrative decisions	-	7
5	Complaints and reports regarding officials of IAAC	4	3
<b>6</b>	<b>Total</b>	<b>192</b>	<b>194</b>

Table 2. Sectors related to the complaint and reports issued by the companies and non-government organizations 2020-2021.

No	Sectors	2020	2021
1	Local government agencies	35	45
2	Law enforcement	37	40
3	Mining	27	13
4	Economy and accounting	10	16
5	Construction and city planning	15	9
6	Bank, finance, audit, investment etc.	9	12
7	Nature and Tourism	9	11
8	Transportation	7	11
9	State inspection, standardization, fair competition	11	6
10	Power supply	8	7
11	Health	3	6
12	Education, sport and science	6	1
13	Agriculture	1	5
14	Development, communication and IT	2	1
15	Labor, social insurance and social welfare	1	1
16	Defense and military service	1	-
17	Consular service, immigration, mission to foreign countries etc.	-	1
18	Entertainment, museum, theatre, library etc.	-	1



19	Other	10	8
20	<b>Total</b>	<b>192</b>	<b>194</b>

Table 3. Government services subject to complaints and reports issued by the private sector and non-government organizations 2020-2021.

No	Sectors	2020	2021
1	Tender and procurement	44	52
2	Special permits	41	41
3	Administrative decision making	22	5
4	Inquiry and criminal investigation	18	9
5	Litigation	10	13
6	Inspection and monitoring	13	8
7	Verdict and decisions issued by state inspectors and experts	9	9
8	Budget expenditure	12	5
9	Actions of civil servants	3	11
10	Execution of court decisions	5	9
11	Actions of political and high-ranking public officials	-	11
12	Banking and finance	2	5
13	Human resource and appointment	2	5
14	Government contracting	3	2
15	Projects and program	1	4
16	Business operations	2	1
17	Expenditure of special government fund	2	1
18	Adjudication of Infractions	-	1
19	Actions of non-government organizations	-	1
20	Actions of police agency	-	1
21	Other	3	-
22	<b>Total</b>	<b>192</b>	<b>194</b>

Subparagraph 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 and 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 IAAC must take the necessary actions and respond promptly. Moreover, Article 18.3 of the Anti-Corruption Law states, "The Independent Authority Against Corruption shall cooperate with the executive officers of government and non-government organizations and private sector enterprises within their powers."

## **Anti-Corruption Law**

### Article 6. Corruption prevention activities

*[...] 6.5. Economic entities, organizations and citizens, in addition to exercising the rights and assuming common obligations specified in Articles 30 and 31 of the Law on Prevention of Crimes and Infringements, shall assume the following obligations:*

*6.5.1. Non-governmental organizations to adopt a code of ethics of its members and report their performance reports and financial statements;*

*6.5.2. The private sector organizations to define and comply with the principles of business ethics.*

*6.6. 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. [...]*

### Subparagraph 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 beneficial owners of the companies, is published in the Registrations Portal to the public through <http://opendata.burtgel.gov.mn/les>.

## **Law on State Registration**

### Article 7. Types of state registration of legal entities

*7.1. State registration of legal entities has the following types:*

*7.1.1. newly created legal entity;*

*7.1.2. the reorganization of the legal entity;*

*7.1.3. changes in the information of the legal entity;*

*7.1.4. termination of legal entity activity;*

*7.1.5. representative office of a foreign legal entity;*

*7.1.6. branches and representative offices of legal entities;*

*7.1.7. the control number of the seal and mark of the legal entity;*

*7.1.8. banning or canceling the registration of a legal entity by the decision of a state authority.*

### Article 10. Archives of original proof documents of state registration

*10.1. The state registration organization shall create and replenish a specialized archive of original evidence documents that are important for registering and verifying the records specified in Articles 6, 7, and 8 of this law, and shall ensure the reliability of its preservation, protection, and confidentiality.*

*10.2. The procedure for keeping the original evidence of state registration in the archive shall be approved by the head of the state administrative organization in charge of state registration.*

*10.3. The state registration organization shall compile data on newly created personal cases of the state registry, its compensation, enrichment and closed personal cases of the state registry by month, quarter, and year at the national level.*

*10.4. The state registration organization has an electronic archive of original evidence documents.*

**Subparagraph 2 (d):**

With the support of the project "Strengthening Good Governance and Transparency in Public Service with Democratization" by the Asia Foundation and the cooperation with IAAC and Transparency International Mongolia, the Mongolian National Chamber of Commerce and Industry has been organizing a series of discussions among the private companies since November of 2017. During the discussion, they discuss corruption and its cause and consequences, business ethics, and provide information about current laws and regulations. At present, the Mongolian National Chamber of Commerce and Industry has trained over 3,000 staff members from about 30 enterprises.

In accordance with Article 4.1.1 of the Law on Accounting<sup>39</sup>, public companies comply with International financial reporting standards for their accounting and reporting. Thus, all private companies and state-owned enterprises adhere to the IFRS. Article 10 of the Law on Audit requires both private and state companies to procure auditing of their financial statements. Furthermore, the model charter of companies and legal persons endorsed by the head of the General Authority for State Registration requires founders to seek authorization from an independent auditing body for their initial financial statement.

In addition, some private institutions follow other internationally recognized standards along with IFRS, such as International Accounting Standards (IAS). For instance, banks follow both standards and indicate such practice in their compliance and accounting policy as international investors require domestic banks to follow major international standards. For this reason, the financial statements of the banks are also audited by internationally recognized auditing companies. Finally, the global trend is pivoting towards integrated reporting, which includes principles such as a green business, eco-friendly investment, gender-sensitive financing, social responsibility and more. Therefore, banks are not restraining themselves to only IFRS or IAS and follow other standards issued by international institutions.

Furthermore, private companies that meet the criteria specified in Article 5.1 of the Law on Small and medium-sized entities comply with International financial reporting standards for small and medium-sized entities.

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<sup>39</sup> Available at: <https://legalinfo.mn/en/edtl/16230949065051>

Business entities and organizations specified in Article 10.1 of the Law on Auditing of Mongolia<sup>40</sup> must have their financial statements audited.

The Central Bank of Mongolia requires banks to disclose its financial statements and operational reports in their websites and audited financial reports that follow IFRS and IAS.

Please refer to the link below for Law on Audit:

<https://legalinfo.mn/mn/edtl/16230949071531>

Last but not least, EITI Mongolia requires the member companies to fill out a survey with questions asking quality of financial reporting and verdicts made by the auditors starting in 2019. The information relating to the quality of financial reports of EITI Mongolia member companies is accessible via the link below:

<https://www.eitimongolia.mn/p/33?locale=mn>

#### Subparagraph 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 officers shall be prohibited from serving on the management of economic entities but have the right to be a shareholder, which leads to a conflict of interest. The case of the SME support fund, where companies of high-level officials or members of Parliament's related persons have received loans from the SME fund (<https://news.mn/r/2093686>), demonstrated the need for tightened regulations in this regard.

#### **Conflicts of Interest Law**

##### Article 3. Definition of legal terms

4.1. *The following terms used in this law shall be understood in the following meanings:*

[...] 3.1.4. "an official" means persons referred to in Article 4.1 of this law; [...]

##### Article 4. Persons subject to law enforcement

4.1. *This law applies to the officials specified in Article 4 of the Anti-Corruption Law.*

##### Article 21. Restrictions after dismissal from office

21.1. *An official shall not, for two years after his/her separation from public office, undertake the following actions fraught with conflict of interest:*

21.1.1. *take up employment with an economic entity or organization in relation to which he/she had performed his/her official duties;*

21.1.2. *conclude agreement or labor agreement with special conditions with his/her former employer or seek a license issued by the former employer;*

21.1.3. *represent any individual or a legal entity before his/her former employer.*

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<sup>40</sup> Available at: <https://legalinfo.mn/en/edtl/16230949071531>

21.2. *The restriction specified in clause 21.1.2 of this law shall not apply to an agreement, labor agreement with special conditions that had been concluded or extended prior to the official's election or appointment to public office, as well as to an agreement, labor agreement with special conditions that has been awarded through public tender or that has a value with an annual income less than the amount equal to 50 times of minimum monthly salary.*

21.3. *An official shall be prohibited from entering into official relations with the entities specified in clause 21.1 of this law.*

21.4. *An official shall be obligated to immediately inform a competent official of the violations of the restrictions specified in clause 21.1 of this law.*

## **Anti-Corruption Law**

### Article 4. Persons subject to law enforcement

4.1. *The following persons are subject to the application of this law:*

4.1.1. *managing and executive officials of political, administrative and special services of the state;*

4.1.2. *executive officer of public service office, chief accountant, chief accountant;*

4.1.3. *management or authorized official of a legal entity owned by the state or local government or a legal entity with participation of state or local property;*

4.1.4. *chairman, member, general director of the National Council of Public Radio and Television;*

4.1.5. *executive officer of a non-governmental organization that receives funding from the national and local budgets and carries out specific government functions in accordance with laws;*

4.1.6. *Candidate for the elections of the President of Mongolia, the National Assembly, and the Assembly of Representatives of all levels of citizens;*

4.1.7. *chairman and representative of the Assembly of Representatives of all levels of citizens;*

4.1.8. *the official specified in the list approved by the competent authority;*

4.1.9. *Authorized official and member of the supervisory board of the Future Heritage Foundation Corporation as specified in Article 4.1.7 of the Law on Future Heritage Foundation.*

### Subparagraph 2 (f):

Mongolia has addressed this issue. For example, Resolution No. 311 of 2011 by the Government of Mongolia adopted "Common Regulation of Organization of Internal Control on Business Activity of Companies and Entities". This common regulation aims to regulate relations related to organizing internal audits within the business entity and organization.

The Resolution No. 483 of the Government of Mongolia passed the “The Rules of Internal Audit”. The Code regulates the purpose, scope, principles, organizational and internal audit 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 Audits has been working since 2016 and is part of The Global Institute of Internal Auditors, which organizes training for companies and capacity-building training for auditors.

<https://institutes.theiia.org/sites/Mongolia/about/Pages/default.aspx>

## **Examples of implementation**

Mongolia has a relatively good legal environment for PPPs supported by the 2010 Concession Law and relevant regulations. Public-Private Partnership Unit started operating in 2011 and has developed PPP handouts and key procedures. Within the concession law framework, the government established five concession agreements in the energy and transport industry between 2011 and 2015, including building Power Plant No. 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 reducing corruption risks in the private sector and promoting competitiveness.

There are currently 78 585 business entities registered in Mongolia, of which 60 330 are small and medium enterprises. At the national level, 1 226 942 people are working, and 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 IAAC has opened the “Civic Control Center” at 4 sites<sup>41</sup> in 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 upon and adopted by Mongolian Agency for Standard and Metrology as a national standard. Regarding implementing the Accounting Law, the Mongolian Agency for Standards and Metrology has adopted 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>.

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<sup>41</sup> The sites are in four Joint Service Centres of the Capital.

In October 2005 Joint session of Standing committees of State Great Khural (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 4<sup>th</sup>, 2006 and issued the Resolution No. 1. <http://www.eitimongolia.mn/en/beneficial-owners>

*(b) Observations on the implementation of the article*

Private entities are obliged to follow the International Financial Reporting Standards (art. 4 of the Law on Accounting).

IAAC helps businesses to develop codes of conduct and training programmes. In case such codes of conduct are not complied with, IAAC can issue and follow up on recommendations (art. 6.6 of the Anti-Corruption Law). There are no specific mechanisms or procedures in place that promote cooperation between law enforcement authorities and relevant private entities, although private entities may report incidents of corruption to IAAC (art. 9.1 of the Anti-Corruption Law).

Pursuant to the Law on State Registration, a registry is kept that contains information on legal entities (arts. 7 and 10). This information, which does not include the identities of shareholders or ultimate beneficial owners, is published in the Registrations Portal and is available to the public.

Certain categories of public officials are subject to a two-year cooling-off period after leaving office (art. 22 of the Conflicts of Interest Law). This restriction applies, inter alia, to officials who held a political, administrative or special office of the State, and to former managers and administrative officials of State- or locally owned legal persons (art. 3.1.4 of the Conflicts of Interest Law; art. 4 of the Anti-Corruption Law).

**It is recommended that Mongolia:**

- **Consider promoting cooperation between law enforcement agencies (including those specifically entrusted with preventing and combating corruption) and relevant private entities (art. 12, para. 2 (a));**
- **Endeavour to enhance measures aimed at increasing transparency relating to the identity of shareholdings and the beneficial ownership of private entities (art. 12, para. 2 (c)).**

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Subparagraph 3(a):

In order to prohibit or prevent the disclosure of off-the-accounts outside the official accounts Mongolia has adopted relevant legislation. However, no statistical or other data is available.

**Budget Law**

Article 35. Consolidated account of the state fund

*35.1. Financial assets shall be managed through the consolidated account of the Treasury located in the Central Bank of Mongolia.*

*35.2. The fiscal institution shall deposit the collected fiscal revenue and its own operational revenue into the consolidated account of the Treasury.*

*35.3. Unless a separate account is opened in a bank with the permission of the central state administrative body in charge of finance and budget issues, all transactions related to the budget shall be carried out through the consolidated account of the Treasury.*

*35.4. The bank is prohibited from opening an account with any fiscal institution without the written permission of the central state administrative body in charge of financial and budgetary matters.*

*35.5. The state treasury and the state audit organization of the relevant level shall inspect and control the accounts of the budget organization opened in the bank outside of the general account of the state fund, close the account opened without the permission specified in Article 35.3 of this law, and withdraw the funds to the general account of the state fund.*

*35.6. Procedures related to the opening and closing of bank accounts by the fiscal organization outside of the general account of the state treasury shall be approved by the central state administrative body in charge of finance and budget issues together with the Central Bank of Mongolia.*

Subparagraph 3(b):

In order to prohibit or prevent the making of off-the-books or inadequately identified transactions Mongolia has adopted relevant legislation. However, no statistical or other data is available.

Subparagraph 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.

Subparagraph 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.

Subparagraph 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.

Subparagraph 3(f):

In order to prohibit or prevent the intentional destruction of bookkeeping documents earlier than foreseen by the law use of false documents, Mongolia has adopted relevant laws. But haven't any statistical or other data.

**Law on Accounting**

Article 13. Basic accounting documents

*13.1. The primary documents are the basis for keeping accounting records and making true and correct financial statements and information.*

*13.2. The government member in charge of finance and registration shall approve the model and method of preparation of basic documents for enterprises and organizations.*

*13.3. Enterprises and organizations, other than those specified in Article 14.2 of this law, may implement primary documents and forms for internal compliance that are appropriate for their own characteristics by having them approved by the authorized governing body specified in their statutes.*

♦ *13.4. The executive management and accountant of the enterprise and organization shall make a written and electronic entry in the primary documents and confirm every movement and change of assets and resources that occurred within the scope of production and service steps and business activities.*

*13.5. The document becomes effective when the employee who made, approved or checked the initial document signed and stamped it. The primary document created in electronic form is certified by electronic signature.*

*13.6. The accuracy of the primary document is the responsibility of the employee who made, approved and accepted it.*

*13.7. It is forbidden to record and include in the financial report the work and transactions without primary documents.*

Article 18. Accounting management and organization of enterprises and organizations

*18.1. The executive management of enterprises and organizations is responsible for managing and organizing accounting.*

18.2. Management of enterprises and organizations shall approve and implement accounting policy documents in accordance with accounting laws, standards, rules, regulations, and instructions.

18.3. The person who keeps the accounting records of the enterprise and organization, prepares and reports the financial statements, shall be a professional or qualified accountant.

18.4. Enterprises and organizations may employ contracted accountants or professional accounting consultants.

18.5. An accountant working in an enterprise or organization with one accountant position, or a contract accountant, shall act as the chief accountant. 18.6. Organizations providing professional consulting services shall appoint a person to exercise the rights and duties of the chief accountant in that enterprise or organization.

18.7. Clause 18.3 of this law shall not apply if the executive management of the enterprise or organization is a professional or qualified accountant, except for the enterprise or organization responsible for enforcing the standards specified in clause 4.1.1 of this law.

18.8. The contract for the provision of professional consulting services shall include the rights, duties, and responsibilities of the chief accountant appointed in accordance with Article 18.6 of this law, as well as issues related to disputes that may arise in the provision of consulting services.

18.9. The institute will grant permission to engage in accounting activities and provide professional consulting services.

*/This section was added by the law of January 17, 2020./*

18.10. Failure to comply with the laws and regulations of Mongolia when conducting accounting activities and providing professional consulting services will be grounds for cancellation of the Institute's approval.

#### Article 20. Rights and duties of the chief accountant

20.1. The chief accountant of an enterprise or organization shall have professional skills and ethics and shall have the following full rights:

20.1.1. demand the production of primary accounting documents, other relevant documents, news and information within the specified period;

20.1.2. refuse to comply with decisions contrary to international accounting standards and laws;

20.1.3. sign the second signature on income and expenditure receipts and financial reports of enterprises and organizations;

20.1.4. not to register work and transactions that are not confirmed by invalid primary documents or primary documents;

20.1.5. if it is considered that the management of the enterprise or organization has been unreasonably charged or dismissed due to the exercise of the full rights stipulated in this law, to apply to the relevant authority for protection of rights.

20.2. The chief accountant undertakes the following duties:

20.2.1. *fully implement the legal requirements of the authorized person specified in Article 17.1 of this law in a timely manner;*

20.2.2. *developing, approving and organizing the implementation of accounting policy documents of enterprises and organizations;*

20.2.3. *keep accounting records and prepare financial reports in accordance with relevant international standards, accounting standards, procedures, and instructions approved by competent government agencies, and the principles specified in Article 6 of this law;*

20.2.4. *control whether the accounting is in compliance with the requirements of this law and other financial legislation;*

20.2.5. *control account payables, receivables and payment calculations, review and confirm work and transactions before they are issued;*

20.2.6. *organize and manage inventory of property and settlement, settlement of results, settlement with suppliers and buyers, confirmation of balances, and documentation;*

20.2.7. *to check the calculation of taxes, payments, fees, and contributions of enterprises and organizations, supervise them, and get advice and assistance from professional services;*

20.2.8. *to provide professional assistance to management of enterprises and organizations in accounting matters;*

20.2.9. *organize the work of providing true and correct information to the management of enterprises and organizations and users of financial statements;*

20.2.10. *Professionally review and present to the management the correction of errors in the records recommended by the audit organization, and if approved, make corrections to the financial year and quarterly reports, and if not approved, provide a reasonable explanation to the auditor;*

20.2.11. *to take measures to monitor the work performance of accountants working under his direct management, to qualify and train them;*

20.2.12. *to submit financial reports of enterprises and organizations to the authorities specified in this law within the time limit set by this law;*

20.2.13. *work in accordance with the rules of professional ethics approved by the authorized organization.*

#### **Article 27. Responsibilities for violators**

27.1. If the act of an official who violates this law is not criminal, he shall be held liable as provided in the Civil Service Law.

27.2. Any person or legal entity who violates this law shall be subject to the penalties specified in the Criminal Law or the Law on Violations.

#### **Law on Violations**

##### **Article 11.18. Violation of the law on accounting**

*1. Enterprises and organizations:*

*1.1. did not comply with the registration standards stipulated by the law;*

*1.2. If operating in the territory of Mongolia, accounting records are not kept in Mongolian;*

*1.3. If you are operating in the territory of Mongolia, you have not registered and reported your work and transactions in national currency;*

*1.4. if the enterprise, organization or representative office has agreed with the central state administrative organization in charge of finance and registration, it has not fulfilled the obligation to register its work and transactions in foreign currency, and in this case, to express the financial statement indicators in MNT, the national currency;*

*1.5. the executive management and the chief accountant did not fulfill their obligation to sign and stamp the financial report;*

*1.6. the enterprise or organization failed to fulfill its obligation to submit its financial report electronically to the customer's financial institution within the period prescribed by law;*

*1.7. the customer financial institution that received the financial report in electronic form did not fulfill its legal obligations;*

*1.8. the financial report submitted to the customer's financial institution in electronic form is not certified by an electronic signature of the executive management of the enterprise or organization or the chief accountant;*

*1.9. based on the electronic financial report certified by the customer financial institution, the related institution failed to fulfill its obligation to calculate taxes, fees, and charges;*

*1.10. Enterprises and organizations responsible for complying with the standards prescribed by law have not submitted the first half-yearly and annual financial reports to the customer's financial institution in electronic form within the time prescribed by law;*

*1.11. the enterprise or organization responsible for preparing the consolidated financial report has not submitted the annual financial report in electronic form to the client financial institution with which the parent company communicates within the period prescribed by law;*

*1.12. did not fulfill the obligation to keep accounting records and financial statements for at least 10 years, unless otherwise specified in the legislation on archive and record keeping;*

*/This clause was amended by the law of April 24, 2020./*

*1.13. did not follow the common model and method of preparation of basic accounting documents, the basic documents and forms for internal tracking approved by the governing body;*

*1.14. the executive management and accountant did not fulfill their duty to confirm every movement and change of funds and resources that occurred within the scope of production and service steps and business activities by making written and electronic entries in primary documents;*

1.15. *did not fulfill the obligation to sign, stamp or seal the primary document, or to certify the primary document created in electronic form with an electronic signature;*

1.16. *Work and transactions without primary documents are registered and reflected in the financial report;*

1.17. *did not keep accounting records and issue financial statements;*

1.18. *did not keep the accounting records by double entry method;*

1.19. *the processing of accounting information is not performed in the order specified by law, or the mandatory registration items are not recorded;*

1.20. *regardless of the territory of the country in which the business activity or transaction took place, did not fulfill the obligation to keep the relevant primary documents and registration forms along with other documents and registration forms according to the law;*

1.21. *did not fulfill the obligation to correct the errors in accounting based on the documents and reports that clearly state the cause of the error and the method of correction, to have the correction signed and confirmed by the official who approved the correction, and to include it in the financial statement at the time of the error;*

1.22. *did not provide timely and accurate additional explanations and clarifications about the indicators of the financial statements required by the person authorized by law;*

1.23. *management did not approve and implement accounting policy documents in accordance with accounting laws, standards, rules, regulations, and instructions;*

1.24. *the person who keeps the accounting records, prepares and reports the financial statements does not fulfill the duty of being a professional or qualified accountant;*

1.25. *If the general accountant fails to fulfill his duties stipulated by the law, a person shall be fined in the amount of four hundred units, and a legal entity shall be fined in the amount of four thousand units.*

## **Criminal Code**

### **Article 18.7. Preparation and use of counterfeit currency, securities, and settlement instruments**

1. *If securities, electronic cards, other means of payment, special tax stamps, financial documents are forged, stored, used, transported or distributed knowingly that they are forged, shall be fined in the amount of five thousand four hundred units to twenty seven thousand units, or one imprisonment for a term of one to five years.*

2. *Forging or knowingly using, storing, transporting, or distributing national or foreign currency used as a means of payment in Mongolia shall be punished by imprisonment for a term of two to eight years.*

3. *If this crime is committed by an organized criminal group, it shall be punished by imprisonment for a term of five to twelve years.*

4. *If this crime is committed on behalf of a legal entity and for the benefit of a legal entity, the legal entity shall be punished with a fine of one hundred and twenty thousand units to four hundred thousand units.*

#### Article 21.1. Falsification and destruction of evidence

1. *In case of destroying, concealing, editing, altering, falsifying evidence important for investigating the case, or presenting it to law enforcers, prosecutors, or the court knowing that the evidence is false, a fine of two thousand seven hundred to ten thousand units shall be imposed. Or imprisonment from six months to two years.*

2. *If this crime is committed by law enforcers, lawyers, prosecutors, judges, officers and employees responsible for preserving and protecting evidence, they will be fined in the amount of 5,400 to 27,000 units, or banned from traveling for a period of one to five years. Restriction, or imprisonment from one to five years.*

#### Article 23.2. Making and using forged documents

1. *Documents, stamps, symbols, printed forms, documents, stamps, symbols, printed forms, civil, official, driver's license, education certificate, diploma, foreign passport, state award, personal identity clarification, certified, physical or non-physical If a document defining the right to own, use or dispose of wealth is forged, used or sold knowing that it is forged, a fine of four hundred and fifty units to five thousand and four hundred units, or community service for a period of two hundred and forty hours to seven hundred and twenty hours. Or restricting the right to travel for a period of one month to one year shall be punished.*

2. *If serious damage is caused to other people's property by committing this crime, the person shall be fined in the amount of two thousand seven hundred to fourteen thousand units, or restricted from traveling for a period of six months to three years, or imprisoned for a period of six months to three years.*

#### Article 23.3. Stealing, destroying, damaging or concealing documents, stamps, symbols, printed forms

1. *Documents, stamps, signs, printed forms, civil, official, drivers licenses, foreign passports, state awards, documents that have granted rights and exempted from obligations, have clarified and certified the personal status of a person, and have the right to own, use, and dispose of material and non-material wealth. In case of intentional theft, destruction, damage, or concealment of the documents confirming payment or settlement, a fine of four hundred and fifty units to five thousand and four hundred units, or restriction of the right to travel for a period of six months to one year, or six months to one year shall be punished with imprisonment.*

#### Article 23.4. Deliberately entering false information in the state register and creating forged documents

1. *If a public official or employee deliberately enters false information in the state register established by law, deletes or changes the information, or makes a document with false information and gives it to others in order to create an advantage for himself*

*or others, the right to be appointed or elected to public office will be revoked for up to two years. Minus 2,700 to 14,000 units, or restriction of the right to travel for a period of six months to three years, or imprisonment for a period of six months to three years.*

*2. If serious damage is caused to other people's property by committing this crime, the right to be appointed or elected to public office will be revoked for a period of two to five years, and a fine of 5,400 to 27,000 units will be fined, or the right to travel for a period of one to five years. Restriction, or imprisonment from one to five years.*

*(b) Observations on the implementation of the article*

Executive managers of enterprises and organizations are responsible for managing and implementing accounting practices (art. 18 of the Law on Accounting). Chief accountants are bound by rules that prohibit the practices referred to in article 12, paragraph 3, of the Convention (art. 20 of the Law on Accounting). Violations of the Law on Accounting are subject to penalties (art. 27). Furthermore, the Law on Violation provides for fines in cases of violation of the Law on Accounting (art. 11.18 of the Law on Violation), and the Criminal Code criminalizes the falsification and forgery of evidence and financial and other documents (arts. 18.7, 21.1 and 23.2–23.4).

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Mongolia has criminalized “bribery of public officials of foreign State organizations and international organizations” in Article 22.6 of the Criminal Code. However, the interpretation of bribery related to public officials of foreign and international organizations must be improved the accordance with international standards. A public official of a foreign and international organization shall be clearly defined in the Criminal Code. There is also a lack of regulation on the expenses that constitute a bribe, which is a component of the crime, and about the tax deductibility of expenses in appropriate cases of corruption.

*(b) Observations on the implementation of the article*

The tax deductibility of expenses that constitute bribes or other expenses in furtherance of corrupt conduct has not been explicitly disallowed.

**Therefore, it is recommended that Mongolia explicitly disallow the tax deductibility of bribes and other expenses incurred in furtherance of corrupt conduct.**

## Article 13. Participation of society

### *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 ordre public or of public health or morals.

### *(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

#### Subparagraph 1(a):

With the purpose of enabling effective participation of the public in decision-making processes and the exchange of information, unifying, reflecting on and reporting back on the views of citizens, civil society organizations and other stakeholders, a two-sided electronic consultation system, where posted the draft laws initiated by lawmakers, was developed. For instance, Parliamentary Office (<http://forum.parliament.mn>), the Office of the President (<https://president.mn/khuuliintusul>) other governmental organizations, such as Communications and Information Technology Authority ([http://cita.gov.mn/?page\\_id=10559](http://cita.gov.mn/?page_id=10559)) post their legislative initiatives on the relevant portals for receiving comments to the draft laws from citizens and the general public.<sup>42</sup>

In addition to receiving the views of the public and citizens in electronic form, it also organizes a forum for discussion of the 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.

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<sup>42</sup> Information provided by Mongolia after the Country visit: In the past, National Audit Office disseminated its news and reports to the general public transparently and openly. Starting from 2021, the audit reports are presented in variety of viewing formats (text, summary, visual and others) via "Open Audit" portal at [www.open.audit.mn](http://www.open.audit.mn). Using the portal, the audit agency receives feedback from the public on the topic of the next auditing activities to be conducted by the state audit bodies.



<http://shd.mn/mn/мэдээ-мэдээлэл/4363-хуулийн-хэлэлцүүлэг-зохион-байгууллаа>.

With the purpose of supporting citizens and public oversight and ensuring access to transparency in the decision-making processes of State bodies and officials, citizens control committee members were deployed in 21 provinces, ministries, agencies, and in the capital city and districts, for which 152 citizens were recruited on a contractual basis.<sup>43</sup>

Subparagraph 1(b):

The IAAC signed the “Memorandum of Understanding” on March 19, 2018, with the NGO “Glob-International” in the framework of the implementation of 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 promoting journalist ethics and accountability, a draft of a curriculum project, budget proposal and a memorandum of understanding for the website developers and workers has been developed.

In order to improve civil service transparency and increase citizens’ access to information on public services, as stated in 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.

The Law on Glass Accounts was adopted in 2014 and entered into force from January 1, 2015. This law aims to create a transparent system (“glass accounts”) to enable public monitoring and further

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<sup>43</sup> Information provided by Mongolia after the Country visit: The Constitution of Mongolia promulgates that the people of Mongolia entitled to participate directly in state affairs, and shall exercise this right through an institution of their elected representatives in charge of governing the State. This right to direct participation in state affairs is ensured through the “D-Parliament” website and its mobile versions which are run by the State Great Khural.

The “D-Parliament” was launched on April 5, 2022 and has basic modules for collecting citizens' comments on laws in drafting stage or submitted to the Parliament and other draft resolutions of the Parliament, organizing electronic polls and discussions, receiving petitions and complaints from citizens, and receiving and integrating citizens' questions related to the news and information concerning the Prime Minister of Mongolia. The “D-Parliament” platform is unique in that it opens up the opportunity to hold online discussions on the hot topics facing the society, express opinions, vote on drafts legislations that are being developed or proposed, and participate in the legislative process.

Since the introduction of the D-Parliament platform, a total of 9,237 citizens have registered as users of which 5,017 citizens have verified their identity, and a total of 442,245 accesses have been made. As of September 5, 2023, citizens' comments are being collected through this platform on legal documents which are in active discussion stage, namely 151 submitted legislations and 47 laws that are under drafting process. In the past, 278 submitted (to the Parliament) and 85 draft laws were uploaded to the system and received comments from citizens. For example, draft of the General Social Insurance Law which was discussed and approved during the 2023 spring session of the State Great Khural had 21,998 views and 1,213 votes from citizens.

In addition, the Draft Law on Domestic Animals, which is currently under development was seen 11,981 times and received 202 votes. It also was seen 3,605 times and received 18 votes during the discussion stage.

Furthermore, iOS and Android version of the platform's mobile application was downloaded and installed 5,887 and 3,150 times respectively so far.

Furthermore, in order to create a legal environment for the participation of NGOs, a revised draft of the Law on Non-Governmental Organizations or the Law on the Legal Status of the Association has been prepared and submitted to the Parliament.

Finally, in order to create a unified policy for supporting civil society, such as involving civil society organizations in policy formulation, discussion, approval, and implementation procedure, to strengthen their capacity, and provide opportunities for strategic advocacy, the Government of Mongolia is preparing a draft policy on civil society to be discussed at the Cabinet meeting.

disclosure to the public information regarding decision-making processes and activities carried out concerning implementing budget management for the purpose of efficiently allocating/spending State and local administration budget.

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

On December 17, 2021, the State Great Khural of Mongolia passed the Law on Transparency of Public Information, one of e-package laws. Previously, the regulations related to data, information, databases, and electronic systems were stated in 154 laws in Mongolia. Most of these provisions only regulated the relationships concerning creation and control of a database and/or an unified registers, and the corresponding legal framework was not sufficient which resulted in discrepancies in implementation of the laws and misunderstanding among citizens and legal entities.

The Law on Transparency of Public Information defines state bodies, legal entities owned by state or local governments, persons executing specific government functions under the law or agreement, a public radio and television broadcaster and political parties as an “information bearer”. It also classifies the public information as “open”, “restricted” and “closed”. According to the law, information defined as transparent, open or not specified as restricted or closed as per the law are considered to be an “open” information, whereas information with restricted acquaintance or usage which are subject to office, natural and/or legal entities are classified as “restricted” information. In the same context, the law defines information to be stipulated as closed or subject to state secrecy as “closed” information.

The law determines the following 67 types of information in 5 directions subject to “open” classification and requires an information bearer to make those information fully accessible on the public domain: (1) ten pieces of information regarding functions, operational strategy, organization and actions implemented under the scope of thereof such as mission, strategical objectives, structure, address, reports, operational statistics unless stated otherwise etc.; (2) six pieces of information concerning human resource such as vacancy, procedure on selection, ethical rules, human resource strategy, rule on assessing job performance etc.; (3) twenty seven pieces of information regarding finance, budget and procurement such as previous year’s budget performance, audit verdict on financial report, budget over and/or under expenditure and its explanation, name of procured goods, works, services exceeding the threshold of 5 million tugriks and its financed amount, subject of related transactions, supplier’s name and address etc.; (4) two pieces of information regarding services provided such as name of the service, corresponding rules, required documents etc.; (5) twenty two pieces of information regarding the matters related to operation such as draft laws and legislation, patents entitlement to land etc.

Because of public criticism related to issues regarding the Open Data List, the lawmakers focused on making it more clear. For example, in Mongolia, all permits issued by governmental and non-governmental organizations (the Bar Association, which performs some governmental functions according to law, etc.) became open and transparent, which in turn will reduce corruption and conflict of interests. In addition, the law made information related to students’ scholarship provided by the state accessible as well as the management, composition, salaries and incentives of state-owned companies.

In addition, the law further provides provisions on person’s right to information, application

procedure, rights and duties of the an applicant, legal basis of the public information infrastructure, electronic-based government activities, switches to electronic communication, e-services, open data and sanctions for violations.

The Law on Electronic Signatures, which is one of the e-package laws, provides legal basis for granting digital signatures to all 16-year-old citizens of Mongolia free of charge, paving the way for transmitting and exchanging information by people, legal entities and government organizations using e-signatures, and increasing the potential of establishing contracts and deals on a electronic domain as a result.<sup>44</sup>

#### Subparagraph 1(c):

To introduce the harmfulness of corruption to citizens and the general public, for the purpose of forming an intolerant view against unethical and unfaithful behavior, posters were made by “Mongol Content” LLC. These posters contained 5 types of content, such as corruption as a crime against education, corruption as a crime against development, corruption as a crime against the environment, corruption as a crime against people, and corruption as a crime against the economy and these posters were printed in 15000 copies. 5600 finished posters are currently distributed to 21 aimags and 330 soums, 3000 in the 13 ministries and districts. Furthermore, It is also ready to release mouse stand, flash, telephone number holders, pens, brochures, notebooks, wall calendars, bulletin boards, and stickers (2 types) that are raising awareness of the damages of corruption.

In the framework to introduce consequences of corruption and to form intolerance to corruption, diverse events for public awareness 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 objective 2.10 of the National Anticorruption Strategy, “to engrain ideology of fairness, to organize public awareness activities against corruption in stages, and to enhance legal knowledge against corruption,” were organized essay writing competition on the 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 a working group, which develops

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<sup>44</sup> Developments after the Country visit, as reported by Mongolia: Furthermore, in order to ensure the transparency of extractive industry or mining and some natural resources sector such as forest and water use, animal hunting, the law makers are planning to draft and submit the Law on Extractive Industry Transparency to the Parliament, and it’s projected to be discussed in the fall session of 2023.

programs to reflect on the content of anti-corruption education in the topics of social sciences in the curriculum context. In collaboration with the Association of Educational Cooperation, the experience-sharing workshop was organized with the Integrity teachers. The workshop, which was devoted to International Anti-corruption Day, involved 110 teachers from 33 schools, managers and parents in schools. Also, an issue published by the NGO “Open School” published Best practices of 110 above-mentioned teachers, learning outcomes and changes after integrity lessons in the school environment, achievements also was introduced by the National Anti-Corruption Strategy, including information about the target 2.10<sup>th</sup> of the strategy (November of 2018).

To fulfil the target of the 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 regard signed the contract with the “Comprehensive Policy Development Center” for the research work on Ethics issues of the Higher Education System, which is planned to do in the third quarter of 2019.

In cooperation with the Asia Foundation and the Law Enforcement University, meetings were conducted to update the ethics curricula and content of the curriculum and provide information and recommendations on implementing the National Anti-Corruption Strategy. After an acquaintance of the new draft curriculum was given some recommendations, the training was conducted in November of 2018 under the new curriculum. The new curriculum contains subjects of ethics, corruption prevention and conflict of interests programs, which will enable a compulsory curriculum for the students of the School of Police at the Law Enforcement University.

The Zorig Foundation and “World Learning” NGO are actively organizing leadership programs, training and advocacy events on youth participation, leadership and ethics in Mongolia.

For example, supporters of “Leadership of Health Sector”, that are members of the “Lead Mongolia” program, which was organized by “World Learning” NGO representatives in Mongolia and members of the team “Increase Integrity of Youth” are organizing a short video competition ‘To spot a light’ and distributed among students and young people. This event aims to build a society free from corruption and enhance integrity. “The “Zorig Foundation” included the subject of corruption in the “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.

Subparagraph 1(d):

- i. Information on corruption crimes is available at: <https://www.iaac.mn/category/26?menu=147>; information on court decisions of corruption cases is available at: <http://shuukh.mn>.

In the National Anti-Corruption Program, in order to strengthen integrity, transparency and independence, to improve the cooperation of the judiciary and law enforcement authorities provided to establish a 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 a united electronic information database system will give the opportunity analysis data from receiving information from corruption violations to investigation and prosecution and court decisions.

The Asian Development Bank implements a project TA: 9662- MON: Anti-Corruption Technical

Assistance Project (2019-2021). This project actively engaged state organizations such as General Prosecutors Office, Judicial General Council and IAAC. One of the main targets of this project is a detailed analysis of the corruption crimes flow. Mongolia supports the freedom of searching, receiving, publishing, and disseminating information about corruption. Mongolia respects the rights and reputation of others within the framework of the law.

ii. Information about corruption is open as covered 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.Acton%20plan%20for%20implementation%20the%20National%20Anti-Corruption%20Strategy%20of%20Mongolia.pdf>

### *(b) Observations on the implementation of the article*

Draft laws and decisions are published online to ensure transparency and to enable the public to provide input. The National Audit Agency has established a platform called Open Audit, where anyone can obtain simplified audit reports and charts.

For the purposes of implementing the “Glass Account” Law, which aims to provide the public with an easy and transparent means of monitoring how and by whom public funds are spent, the Ministry of Finance operates a website with a dedicated web page for each relevant organization to maintain information on its financial activities.

IAAC conducts public information campaigns to raise awareness of the harmful consequences and negative effects of corruption. IAAC also works with the Ministry of Education, Culture and Science to assess the status of anti-corruption education in the curricula of various study programmes.

### *(c) Successes and good practices*

The country has established the “Glass Account” Law, which aims to provide the public with an easy and transparent means of monitoring how and by whom public funds are spent (art. 13, para. 1 (b)).

### *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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Information on corruption cases and offenses is received by the IAAC personally, by phone, by website, by mail, and by e-mail. Additionally, the Anti-Corruption Law provides that “Undertake organizational measures to support and assist anti-corruption actions, initiatives and recommendations of NGOs, communities and individuals, and promote their participation. Furthermore, in order to meet the objectives stated in the previous National Anti-Corruption Strategy, the parties to the Strategy is obliged to receive reports and complaints about government organization’s and governmental officer’s bureaucratic services and actions connected to corruption and conflicts of interest and give legal advice, information, training to any affected parties For this purpose, “Civic Control Center” is launched by the Coordination Council of the Capital City Crime Prevention and the Governor’s Office of Ulaanbaatar on January 25, 2019, in Dunjingarav, Dragon, Misheel Expo and Selbe.

**Anti-Corruption Law**

Article 18. Functions and powers of the Anti-Corruption Agency

*18.1. The Anti-Corruption Agency shall carry out the following functions in terms of public awareness and prevention:*

*[...]*

*18.1.4. to take organizational measures to increase the participation of non-governmental organizations and citizens in the activities, proposals and initiatives to combat corruption;*

*[...]*

In 2017, IAAC received 658 corruption offense-related complaints out of total 1324 complaints and information from citizens and organizations, whereas, in 2018, that number has increased and reached 858 corruption offense-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, which decreased to 18.5 percent in December 2018 (<http://bzd.edub.edu.mn/Data/Uploads/Docs/b69ac2d9-8c31-4611-b984-3e4225affedc.pdf>).

*(b) Observations on the implementation of the article*

Suspected corruption offences can be reported to IAAC through various channels, including online reporting forms and a hotline. IAAC actively advertises the existence of the hotline in order to raise awareness. Nonetheless, a survey conducted in 2018 showed that the number of people who reported being aware of the IAAC reporting channels had fallen. IAAC is also mandated to take measures to support and assist anti-corruption actions, initiatives and recommendations of non-governmental organizations, communities and individuals, and to promote their participation (art. 18.1.4 of the Anti-Corruption Law). A draft law on the protection of whistle-blowers is under consideration by the Parliament.



## Article 14. Measures to prevent money-laundering

### *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;*

### *(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

#### Subparagraph 1 (a):

According to 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 Article 4.1 of the Law on Combating Money Laundering and Terrorism Financing (AML/CFT) of Mongolia, Reporting Entities 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, reporting entities described below (Article 4.1) shall conduct customer due diligence (CDD), identify beneficial owner, submit a report about cash, foreign settlement and virtual asset transactions above 20 million tugrik and suspicious transaction reports to the 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;
8. Dealers of precious metals and precious stones, and parties engaged in sales of those manufactured items– when they engage in cash transaction equal to or more than 20 million tugriks

(or equivalent foreign currency);

9. Notaries, lawyers, accountants and other financial management counsellors– when they prepare, conduct and involved in following activities in relation to a customer:

9.a. buying and selling of real estate;

9.b. managing of client’s assets;

9.c. management of bank, savings or securities accounts;

9.d. organising of contributions for the creation, operation or management of companies;

9.e. creation, operation or management of legal persons or arrangements, and buying and selling of business entities.

10. Virtual asset service providers<sup>45</sup>;

If entities described above suspect or know that an asset, income or transaction, or attempted transaction is related to money laundering or terrorism financing, or is related to proceeds of crime, they shall submit a Suspicious Transaction Report to the FIU within 24 hours in accordance with approved procedures and formats. The Central Bank of Mongolia (BoM) and The Financial Regulatory Commission (FRC) shall supervise and regulate reporting entities 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;

#### Law on Combating Money Laundering and Terrorism Financing

2.2. If an international treaty to which Mongolia is a party is inconsistent with this Law then the provisions of the international treaty shall prevail.

3.1.5. “Politically exposed person” is an individual defined in Article 20.2 of the Conflict of Interest Law, 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.

3.1.6. “Beneficial owner” means:

3.1.6.a. if a customer is legal entity then a person who has a significant or controlling ownership interest solely or jointly with others or holds a management function of s the legal entity’s or represented by other persons or ultimately owns the legal entity earning benefit and profit by exercising control of the legal entity and its arrangement;

3.1.6.b. if a customer is an individual then a person who controls customers’ action activity or represented by this person who benefiting from it;

3.1.6.c. As for a legal arrangement, a person who earns benefit or profit by exercising ultimate effective control over the legal arrangement.

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<sup>45</sup> This article was amended by the Law of 17<sup>th</sup> December 2021.



3.1.7. Shell bank means 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.

#### Article 4. Reporting entities<sup>46</sup>

4.1. The following entities shall report to the FIU described in Article 16.1 on transactions specified in to Article 7 of this Law:

4.1.1. banks;

4.1.2. non-bank financial institutions;

4.1.3. insurance companies and insurance licensed entities;

4.1.4. investment funds; investment management company;

/This article was amended by the Law of 26<sup>th</sup> April 2018/

4.1.5. licensed securities market entities;

4.1.6. savings and credit cooperatives;

4.1.7. real estate agents who are involved in activity of buying and selling of real estate on behalf of a client;

4.1.8. Dealers of precious metals and precious stones, and parties engaged in sales of those manufactured items – when they engage in any transaction with a customer equal to or above the threshold specified in Article 5.1.2.

4.1.9. Notaries, lawyers, accountants and other financial management counsellors – when they involved in following activities on behalf of a customer:

4.1.9.a. buying and selling of real estate;

4.1.9.b. managing of client's assets;

4.1.9.c. management of bank, savings or securities accounts;

4.1.9.d. organising of contributions for the creation, operation or management of companies;

4.1.9.e. creation, operation or management of legal persons or arrangements, and buying and selling of business entities;

4.1.10. virtual asset service providers

According to Article 19 of the AML/CFT Law, the BOM shall supervise and regulate entities described in the Section 1 above, the FRC shall supervise and regulate entities described in Section 2 to Section 8 and Mongolian Bar Association, Association of Mongolian Advocates, Chamber of Notaries, Institute of Certified Public Accountants, Financial Regulatory Commission and competent authorities for issuing special licences, supervising authority shall supervise and regulate entities described in Section 9.

Under Article 19.2.1 of the AML/CFT law, competent authorities mentioned above shall perform on-site and off-site supervisions, to issue guidelines, regulations and recommendations and inspection directive for entities specified in Section 1 to Section 9.

Competent authorities shall conduct the off-site analysis, evaluation, and verdict related to compliance of the reporting entities against the AML/CFT Law and other regulations and to assess Res' ML/CF risk in order to establish examination period, frequency, scope and assessing indicator prior to onsite examination.

The AML/CFT onsite examination can be conducted in full scope or targeted area in accordance with verdict of off-site surveillance and risk assessment of the reporting entities.<sup>47</sup>

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<sup>46</sup> FIU is also vested with supervising some professional parties as per 19.1 of the updated law. Please refer to the link for full English translated version of AMLCFT law at: [https://www.mongolbank.mn/file/cace8a292f83dd83fa8b66004fd4fd4/files/ON\\_COMBATING\\_MONEY\\_LAUNDERING.pdf](https://www.mongolbank.mn/file/cace8a292f83dd83fa8b66004fd4fd4/files/ON_COMBATING_MONEY_LAUNDERING.pdf)

<sup>47</sup> Regulations of onsite and offsite supervisions can be accessible at the following address: <https://www.mongolbank.mn/en/p/1500>

Mongolia met requirements (see below) of recommendation 26 and 27 of FATF which are related to the risk based supervision and power of supervisors for the financial institutions:

#### AMLCFT Supervision activities of Central Bank of Mongolia

The AML Division of Supervision department of the BoM conducts risk-based supervision of banks' AML/CFT operations and implementation of relevant laws and regulations. There are two main types of risk-based supervision:

##### 1. Risk based offsite supervision /remote monitoring/:

In 2022<sup>48</sup>, the BoM revised and updated the "Regulation of off-site supervision of the banks on anti-money laundering and combating financing of terrorism and proliferation" in line with the Law on AML/CFT and international standards. The purpose of offsite supervision is to assess the ML/TF risks of bank's, based on the bank's data and questionnaire, carry out an inspection strategy, examination schedule and direction of onsite examination based on the risk-assessment.

The following activities are being carried out within the scope of remote monitoring:

- Collects data on bank's products, services and collects information on ML/TF risk mitigation, policies and procedures and its implementation;
- Each supervisor assesses the banks ML/TF risk and develops a risk assessment report;
- Carry out each bank's examination strategy;
- Reports on the progress of the implementation of the bank's AML/CFT activities, and ensure the fulfillment of assigned tasks;
- Prepare risk matrix write-up report and develop risk based onsite examination plan based on the results;
- Carry out outreach programs to reinforce the effectiveness on implementation of AML/CFT framework in banks.

##### 2. Onsite supervision:

The BoM revised and approved the " Regulation of onsite supervision of the banks on anti-money laundering and combating financing of terrorism and proliferation" in line with the Law on AML/CFT and international standards.

In accordance with this regulation, the banks' policies and procedures, internal regulations, and guidelines must follow the Law on Combating Money Laundering and Financing of Terrorism, the Law on Proliferation of Weapons of Mass Destruction and Combating Terrorism, and other regulations issued by the BoM, where supervisors conduct risk based supervision to ensure the implementation of the regulations, instructions, guidelines, and recommendations issued by the BoM in accordance with its structure, products and services, the methods of delivery, and the scale of operations.

Risk based onsite examination has following types:

- o Full scope onsite examination. All areas are examined;
- o Partial examination: Some areas are examined;
- o Performance examination: Examination to verify the fulfillment of the tasks;

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<sup>48</sup> AMLCFT supervision regulations are revised and updated ongoing bases. The supervisors regularly review questionnaire, tools, risk matrix, reporting templates once in the year. Last revision made to the onsite and offsite revision was in Dec of 2022. Moreover, examination procedures are also being developed and expanded depending on the examination areas.

o Thematic review: Examination of a given specific topic or areas.

Risk-based supervision – The AML division of Supervision Department of Central Bank of Mongolia conducts risk-based examination of banks' AML/CFT operations and implementation of relevant laws and regulations.

Outreach programs – With revision of laws, regulations and international standards AML supervisors organize trainings for banks and other relevant organizations. In 2022, AML division staff individually organized several trainings and outreach activities<sup>49</sup>.

Non-compliance measures /enforcement actions/ - During the offsite and onsite examinations if supervisors detect bank's failure to carry out customer due diligence and verification, failure to adequately monitor accounts and transactions, failure to report suspicion transaction reports etc, supervisors take penalty measures according to the Law on Infringement. Penalties are appropriate to the severity of the violation and deterrence of repeated violations. /proportionate and dissuasive/

## Examples of implementation

Subparagraph 1 (a):

1. Statistics of reports received from reporting entities by FIU:

	2021	2020	2019	2018	2017
Number of cash transaction report	336,518	402,296	562,926	669,910	572,181
Number of Foreign Settlement Transaction Reports	211,176	143,191	131,715	126,944	98,549
Number of Suspicious transaction reports	1,801	3,014	2,385	1,596	203

Source: BoM, FIU. 2021.12.31

The FIU receives cash transaction reports (CTR), foreign settlement transaction reports (FSTR) with a threshold of 20 million MNT, as well as suspicious transaction reports (STR) from reporting entities, which are specified in the Article 4.1 of the AML/CFT Law.

2. Number of Foreign Settlement Transaction Reports

	2020.II	2019	2018	2017	2016
<b>Bank</b>	60,042	126,726	122,021	95,780	89,716
<b>Non-bank FIs</b>	1,890	5,218	4,923	2,769	844
<b>Total</b>	61,932	131,944	126,944	98,549	90,560

Source: BoM, FIU. 2020.07.20

3. Number of Suspicious Transaction Reports

	2021	2020	2019	2018	2017	2016
<b>Bank</b>	1,758	2,979	2,370	1,593	203	279
<b>Non-bank REs</b>	38	33	13	3	-	-
<b>Other</b>	5	2	2	-	-	3

<sup>49</sup> Please see detailed statistics from table 1: AML/CFT statistics below.

<b>competent authorities</b>						
<b>Total</b>	1,801	3,014	2,385	1,596	203	282

Source: BoM, FIU. 2021.12.31

4. The Anti-Money Laundering Division of Supervision department of BOM had conducted the following examinations to all banks between 2020 and 2022 as follows:

Table: BOM AML supervision division

Year 2020	Q 1	Q 2	Q 3	Q 4	Total
Number of Onsite supervision	1	13	5	2	21
Number of Number of supervisory notices and observation letter	-	39	7	9	55
Number of supervisory notices and observation letter	1		4		5
Year 2021	Q 1	Q 2	Q 3	Q 4	Total
Number of onsite supervision	0	0	1	2	3
Number of violations identified	-		4	8	12
Number of violations identified				2	2
Year 2022	Q 1	Q 2	Q 3	Q 4	Нийт
Number of onsite supervision	1	0	12		13
Number of violations identified	0	0	12		12
Number of violations identified	1				1

Source: BoM. 2021.12.31

With regard to STRs, the increase in STRs in 2018 was due to the mutual evaluation of Mongolia and action plan was given to improve the specific recommendations. To implement the necessary actions, competent authorities improved their supervision system and reporting entities started to submit reports to FIU to comply with the given actions. Drop in the number of STRs in 2021 was directly impacted by Covid-19 restriction measures where businesses and offices were not allowed to work for several months on and off.

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 the National Police Agency (NPA) by the order №A/11 of 11<sup>th</sup> 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, the following risk assessments have been conducted by the relevant competent authorities:

- Risk assessment on terrorism and proliferation financing;
- Risk assessment of the Mongolian entities on being used directly/or indirectly to evade UNSCR financial targeted sanctions using foreign natural and legal persons;
- Terrorist financing short risk assessment of non-profit legal persons designated by FATF as high-risk;
- Risk assessment of the NBFIs sector;
- Risk assessment of the SCC sector;
- Risk assessment of the Insurance sector;
- Risk assessment of the Securities sector;
- Risk assessment of the Real estate sector;
- Risk assessment of the DPMS sector.

It concluded that general assessment level of the risks to financing of terrorism and proliferation of weapons of mass destruction is in average risk level /Although there is a low risk of terrorism in Mongolia, the level of conducive conditions for fundamental conditions for terrorism is at medium level. Therefore, the level of risk of terrorism has increased to higher than low/. Therefore, it is required to take basic measures of combat the financing of terrorism and implement preventive measures for these crimes in Mongolia.

Mongolia has started conducting National Risk Assessment (NRA) on Money Laundering and Terrorist Financing (ML/TF) in accordance with the World Bank's methodology. The working group was established by the Decree No. 20 of the Finance Minister dated January 31, 2020 and there are 10 sub-working groups for each module. Thus, the NRA modules cover sectors such as

banking, securities insurance, DNFBPs, NPO and real estate. The sub-working group on threat assessment is led by the Deputy Prosecutor General of the Capital of the GPO. The ML/TF cases are overseen directly by respective branch prosecutors' offices according to legislative jurisdictions. Data and information necessary for the threat assessment is being collected and compiled in accordance with the World Bank's methodology.

In compliance with the FATF recommendations, amendments to the AML/CFT Law and relevant laws were approved by Parliament on 26 April 2018 and came in force on 01 July 2018. In this regard, relevant agencies amending existing regulations and guidance and drafting new procedures to bring them inline with the amended laws.

Also, the revision of the Law on Counter Terrorism and Proliferation (LCTP) submitted to the parliament on July 9, 2019 and adopted on October 10, 2019 to complement the established legal and institutional framework of CFT/CPF. The LCTP also enables main principles, structure and legal grounds for countering terrorism and proliferation in Mongolia as well as fulfilled and reflected deficiencies identified by mutual evaluation which are enforceability, ex parte operation of the agency, protection of bona fide third party and procedures delisting and unfreezing criteria.

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.

According to the amendments to the Law on licences for business activities on January 2020, Article 15.21 started to cover regulation for licensing REAs and DPMS. Also, FRC established a separate department that is solely responsible for and dedicated to licensing, policymaking and supervision for DPMS. In March, FRC approved licensing regulations for regulated DNFBP sectors: Regulation on licensing for REAs and Regulation on licensing for DPMS by setting standards for licensing applications and overall regulatory framework.

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.

The FRC made supervision plans on half-year basis for all sectors it supervises based on risk profiles. The frequency and intensity of AML/CFT on-site inspections conducted by the FRC on financial sectors are recently informed by risks, including conducting thematic on-site supervision and follow-up visits. For off-site supervision, specific reports were required to be submitted by entities with specific high risk areas, along with compliance reports that all reporting entities must provide on a quarterly basis.

From January to April, 2020, the FRC further conducted (i) risk-based AML/CFT on-site inspections on 16 FRC-regulated entities (5 non-bank financial entities and 3 REAs and 8 DPMS); (ii) thematic ML & TF on-site supervisions on 10 DPMS; (iii) TFS thematic on-site supervisions on 33 non-bank FIs, REA and DPMS; and (iv) off-site monitoring on all regulated entities. Based on AML/CFT breaches identified, the FRC issued 33 rectification notices and 24 warning letters, suspended 14 licenses, revoked 8 licenses, and imposed monetary penalties of 35 million MNT in all sectors in total. In relation to DPMSs and REAs, 25 rectification notices and 10 warning letters were issued for deficiencies.

**The overall supervision statistics on FIs and DNFBPs of TFS PF obligation (from January to May, 2020)**

Supervising authorities	REs	Offsite supervision /Questionnaire/	Rectification order	Onsite supervision	Rectification order	Warning letter	Enforcement measures taken	Scheduled onsite supervision
BoM	Banks	13	-	13	13	-	-	13
FRC	NBFIs	538	213	8	3	5	1	10
	SCCs	275	148	4	-	4	-	2
	Securities	53	21	4	-	4	-	5
	Insurances	73	36	3	3	-	-	1
	REAs	150	150	11	11	-	-	5
	DPMS	230	230	3	3	-	-	6
SRBs	Lawyers and Law firms	228	194	21	1	20	5	14
	Accountants and auditors	64	26	7	1	6	-	10
	Notaries	160	125	15	9	6	2	40
Total		1784	1143	89	42	45	8	106

For the other DNFBP sectors: The Mongolian Institute of Certified Public Accountants conducted 7 onsite supervision and deficiencies which resulted in a warning letter and 6 warning letters. The deficiencies included the need to appoint compliance officers and to further train them as well as improving EDD measures for identifying beneficial owners and internal monitoring of TFS (already in place) needs to be improved. Mongolian Chamber of Notary conducted onsite supervision of 15 notaries and detected some minor deficiencies in all resulted in 9 rectification order and 6 warning letters. Mongolian Bar Association conducted 21 onsite supervisions of law firms. The onsite identified minor PF TFS deficiencies; one rectification order was issued and 20 warning letters were issued.

*(b) Observations on the implementation of the article*

The country's legal regime to prevent money-laundering consists principally of the Law on Combating Money-Laundering and Terrorism Financing, in addition to relevant orders, regulations and guidelines issued by the supervisory authorities, including the preventive measures regulation on combating money-laundering and terrorist financing (issued by the Central Bank of Mongolia pursuant to article 5.14 of the Law on Combating Money-Laundering and Terrorism Financing for banks and non-bank financial institutions.

According to Article 19.2 of AML/CFT Law, all competent supervisory authorities shall issue guidelines, regulations and recommendations and inspection directive for entities. For example:

- Regulation of off-site supervision of the banks on anti-money laundering and combating financing of terrorism and proliferation;
- Regulation of onsite supervision of the banks on anti-money laundering and combating financing of terrorism and proliferation;
- Rule on offsite supervision and onsite inspection to non-banking sector reporting entities in the field of AMLCFT;
- Regulation on Supervision for REAs.

To comply with the anti-money-laundering requirements, all financial institutions and designated non-financial businesses and professions (reporting entities pursuant to art. 4 of the Law on Combating Money-Laundering and Terrorism Financing) must have in place internal anti-money-laundering systems that include customer and beneficial owner identification; ongoing monitoring of transactions; enhanced due diligence in relation to high-risk customers, accounts and transactions; and record-keeping and reporting of suspicious transactions (see the section on art. 52 of the Convention, below).

Article 18.2 of the Law on Combating Money-Laundering and Terrorism Financing grants the FIU the power to examine the compliance of all reporting entities with the Law. Article 19 of the Law designates the authorities with supervisory functions related to money-laundering for each reporting entity. Those authorities include the Central Bank of Mongolia for banks, the Financial Regulatory Commission for non-bank financial institutions, and the Financial Regulatory Commission and the relevant licensing and supervisory authorities for the various designated non-financial businesses and professions, in addition to the Mongolian Bar Association, the Association of Mongolian Advocates, the Chamber of Notaries and the Institute of Certified Public Accountants.

Considering the overall supervision statistics on designated non-financial businesses and professions, their supervision is an area for improvement.

The Law on Combating Money-Laundering and Terrorism Financing establishes a range of rectification measures and sanctions for non-compliance with measures to prevent money-laundering (art. 23).

Mongolia completed its first ML/TF National Risk Assessment (NRA) in 2016 and has subsequently undertaken several sectoral assessments including for non-bank financial institutions.

Relevant public authorities and the private sector contributed to the development of the NRA. Following the adoption of the NRA, a national AML/CFT strategy was adopted in 2017. The National Cooperation Council and the FIU are jointly responsible for supervising and evaluating the implementation of the strategy.

Mongolia started conducting its second NRA in 2020 in accordance with the World Bank's



methodology. This NRA should be completed in June 2022. A draft action plan has already been submitted to the Cabinet for approval.

**It is recommended that Mongolia take the necessary measures to further improve the supervision of designated non-financial businesses and professions for anti-money laundering purposes.**

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Subparagraph 1 (b):

The investigation of the money-laundering offense is subject to investigation by the NPA, IAAC and the General Intelligence Agency (GIA). The BoM and FRC has the authorization to supervise. The FIU was established in 2006 within the structure of the Central 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.

The GPA, GIA and IAAC are LEAs designated to investigate ML in line with their predicate offence jurisdiction under Article 6.1 of the Law on Criminal Procedure and Decree of the Prosecutor General of State. Once a criminal investigation is established, the the respective branch prosecutors' offices directly oversee the cases according to legislative jurisdictions and allocates ML investigations to the appropriate LEA as follows:

- IAAC - ML cases which are detected during inquiry and investigation of corruption cases are investigated by the IAAC.
- GIA - ML cases which are detected by the GIA itself.
- GPA - ML cases involving all other predicate offences are investigated by the Anti-Money Laundering Unit of the Economic Crime Division of the State Investigation Department of the GPA.

## Examples of implementation

Subparagraph 1 (b):

Relevant statistics:

Number of reports disseminated for investigation to law enforcement authorities by FIU

Statistics	2014	2015	2016	2017	2018	2019	2020	2021
<i>Number of reports disseminated to law enforcement authorities by FIU-Mongolia</i>	6	27	166	15	181	48	505	539
<i>Information Requests received from domestic competent authorities /by number of entity/</i>	634	1,248	1,200	1,945	2,510	2,396	3,336	3,665
<i>Responses sent by FIU-Mongolia to information requests received from domestic competent authorities /by number of entity/</i>	631	1,241	1,238	1,834	2,300	2,634	3,110	3,886

Source: BoM, FIU. 2021.12.31

In 2021, the FIU analyzed suspicious transactions involving 551 individuals and disseminated 539 individuals related suspicious transactions to LEAs. Here are the statistics of Suspicious transaction reports disseminated to IAAC from FIU-Mongolia with grounds for suspicion for the years of 2018 through 2021:

Year	Classification	Numbers
2018	<b>Total</b>	<b>3</b>
	STR that might be related to PEP	1
	Corruption, Money Laundering	2
2019	<b>Total</b>	<b>2</b>
	Tax evasion	1
	STR that might be related to PEP	1
2020	<b>Total</b>	<b>59</b>
	Corruption, Money Laundering	1
	Money Laundering	1
	Public entity transactions made through personal account	1
	STR that might be related to PEP, Corruption	1
	PEP is under investigation by the IAAC	1
	STR that might be related to PEP	2
	STR related to PEP	4
	Abuse of public position	16
	Currency may be smuggled across the border, corruption	34
2021	<b>Total</b>	<b>8</b>

	Corruption	2
	STR that might be related to PEP	2
	STR related to Cryptocurrency	4

Source: BoM, FIU. 2021.12.31

Moreover, the FIU cooperates with foreign institutions and international organizations which conduct similar activities and have similar confidentiality requirements imposed by law according to Article 21.1 of AML/CFT Law, the FIU should cooperate with foreign and international organizations with similar functions and of the same level of confidentiality requirements in accordance with respective legislation.. 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 164 countries.

#### **Exchange of information with foreign authorities for FIU analysis purposes /number of entities/**

No	Indicators	201	201	201	202	202
1	Number of requests sent by FIU to foreign FIUs	393	231	238	353	140
2	Number of responses to requests sent to foreign FIUs	316	193	202	247	165
3	Number of requests submitted to the FIU for information from a foreign FIU	167	126	133	123	149
4	The number of responses to requests for information from foreign FIUs submitted to FIUs	151	126	144	112	129

Also, FIU Mongolia has cooperation MOU with 21 other foreign countries FIUs.

No.	Organization name	Date of signing MOU	Country name
1.	Financial Crimes Investigation Board (MASAK ) Turkey	13.02.2008	Turkey
2.	China Anti-Money Laundering Monitoring and Analysis Center (CAMLMAC) China	04.09.2008	China
3.	Financial Transactions and Reports Analysis Center of Afghanistan (FinTRACA)	10.07.2008	Afghanistan
4.	Financial Intelligence Unit - Malaysia (UPWBNM)	25.01.2010	Malaysia
5.	The State Financial Monitoring Service of Ukraine (SFMS)	27.05.2010	Ukraine
6.	Bangladesh Financial Intelligence Unit (BFIU)	10.07.2010	Bangladesh
7.	Financial Intelligence Unit-Mexico (FIU-Mexico)	10.07.2010	Mexico
8.	FIU (FIU-Nepal)	13.07.2010	Nepal
9.	Office for Money Laundering Prevention (OMLP) Slovenia	12.07.2011	Slovenia
10.	Federal Financial Monitoring Service (Rosfinmonitoring) Russia	13.07.2011	Russia
11.	Anti-Money Laundering Division (AML) Taiwan	07.12.2011	Taiwan
12.	Japan Financial Intelligence Center (JAFIC)	29.05.2012	Japan
13.	The Department of Financial Monitoring of the State Control Committee of the Republic of Belarus (DFM) Belarus	10.07.2012	Belarus

14.	Anti-Money Laundering Council (AMLC) Philippines	10.07.2012	Philippines
15.	Financial Intelligence Unit of Sri Lanka (Sri Lanka FIU)	11.07.2012	Sri Lanka
16.	Office for Prevention and Fight Against Money Laundering (SPCSB) Moldova	12.07.2012	Moldova
17.	Committee on Financial Monitoring of the Ministry of Finance of the Republic of Kazakhstan (Finmonitoring)	10.06.2016	Kazakhstan
18.	Korea Financial Intelligence Unit (KoFIU)	31.08.2016	Korea
19.	The State Financial Intelligence Service under the Government of the Kyrgyz Republic	24.05.2018	Kyrgyz
20.	Unidade de Informacao Financeira of Timor-Leste	17.11.2021	Timor-Leste
21.	The Cambodian Financial Intelligence Unit (CAFIU)	14.04.2022	Cambodia

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 FIU. The Cooperation Council consists of representatives of Ministries in charge of foreign relation, finance, justice, Prosecutor office, Central Bank of Mongolia, Financial regulatory commission, Law enforcement authorities, organizations responsible of combating terrorism financing, taxation and custom authorities and the FIU.

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, Central Bank of Mongolia, Financial regulatory commission, Law enforcement authorities, organizations responsible of combating terrorism financing, taxation and custom authorities and the FIU. The function of secretariat of the National Committee is performed by the FIU.

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 152 of Chapter 2 of the Law on combatting terrorism financing and prevention of money laundering, Law on customs and Appendix 1 to the Decree A/223 dated 2019 approved by the Director General of the General Customs Authority "Procedure on Customs Entry

of Items Belonging to the Passenger”<sup>50</sup>, movement of tugrugs and foreign currencies is supervised by the General Customs 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.

*(b) Observations on the implementation of the article*

Mongolia complies with the provisions of this Article.

The FIU was established within the Central Bank of Mongolia. The Unit receives, analyses and disseminates information regarding suspicious transactions or attempted transactions that may involve money-laundering, associated offences or terrorism financing to the competent law enforcement authorities (art. 16 of the Law on Combating Money-Laundering and Terrorism Financing). The FIU joined the Egmont Group in 2009.

Anti-money-laundering supervisory and law enforcement authorities cooperate and exchange information at both the domestic and the international levels (art. 19.2 of the Law on Combating Money-Laundering and Terrorism Financing). Mongolia has also established the National Cooperation Council, consisting of representatives of the various competent national authorities, to organize the coordination of issues related to money-laundering and terrorism financing at the operational level (art. 22 of the Law), in addition to the National Committee, which organizes the coordination of such issues at the policy level (art. 22 (1) of the Law).

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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<sup>50</sup> The Section 6.6 of the Procedure states that “If the passenger carries foreign currency, financial instrument and/or digital currency worth fifteen million tugriks or more, he/she should fill out two copies of the customs declaration. A state inspector of customs in charge of customs inspection shall check the carry cash, and verify by putting individual stamp on cell No 4 of the declarations: and give a copy of the declaration to the passenger, and keep the other copy to the customs administration. Based on the customs declaration, Cash Control field of Risk Management of CAIS system shall be filled out accordingly.” If the violation of this procedure occurs, the pertinent natural or legal persons shall be punishable by Section 11.29.22 of Law on Violation. The sanctions are as follows:

22.1 if truthful or correct disclosure is avoided;

22.2 if truthful or correct disclosure is refused;

22.3 if disclosed falsely, asset and income corresponding to an amount of inconsistent payment instruments or currencies shall be seized, and a natural or legal person shall be punishable by a fine equal to 15 percent of the amount of inconsistent payments instrument or currencies.

Under Article 15 of the AML/CFT Law travellers carrying more than 15 million tugriks 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 Article 15.1 of this Law and transmit to the FIU every month according to the relevant regulations.

According to Article 223.1.2 of the Customs Law and Article 6.4.5 of the “Regulation on the customs clearance of passengers’ personal items” – Five million of more MNT and a foreign currency equivalent or check equivalent shall be required to declare in the Customs declaration. In breach of the Law, a fine is imposed according to Article 11.29 of the Infringement Law.

Under the Section 22 of Article 11.29 of the Infringement Law, If person, legal entity:

- avoided to provide accurate declaration;
- refused to provide accurate declaration;
- gave false declaration to customs then the non-declared financial instrument or currency equivalent to the asset or income shall be confiscated, and person, legal entity shall be fined with 15 percent of the value of non-declared instrument or currency.

### Examples of implementation

Number of Customs Declaration Reports

2014	2015	2016	2017	2018	2019	2020	2021
2,347	1,917	1,488	1,533	1,413	11,870	5,520	2,660

Source: BoM, FIU. 2021.12.31

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 without declaration 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:

- In 2017, 61 requests for information of 1085 individuals and legal entities and received 61 responses on 1038 individuals and legal entities.
- In 2018, 67 requests for information of 1512 individuals and legal entities and received 67

responses on 1538 individuals and legal entities.

- 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.

### Confiscation statistics as of Q1, 2020

2020 Q1									
	Currency	Declared		False declared/Undecl		Confiscated		Penalty imposed	
		In MNT	in tugrik	in USD	in MNT	USD	in MNT		
International Airport	CNY	467,500	183,082,350	14,080	5,514,010	14,080	5,514,010	298	827,101
	USD	3,382,893	9,396,797,202	14,085	39,124,468	14,085	39,124,468	2,296	6,377,999
	MNT	0	0					-	
	EUR	178,650	545,693,571					-	
	RUB	6,084,000	215,191,080					-	
	KRW	2,967,607,000	6,766,143,960	69,897,737	159,366,840	69,897,737	159,366,840	8,606	23,905,026
	HKD	446,000	159,788,420	178,636	63,999,920	178,636	63,999,920	3,733	10,370,000
<b>Total amount in tugrik</b>			17,266,696,583		268,005,237		268,005,237	14,933	41,480,126
<b>Total amount in US dollars</b>			6,216,095		96,483		96,483		
Land Border Posts	CNY	3,314,010	1,297,832,596						
	USD	326,920	908,098,761						
	MNT	19,656,750	19,656,750						
	EUR	3,695	11,286,525						
	RUB	82,668,780	2,923,994,749						
	KRW	0	0						
	<b>Amount in tugrik</b>			5,160,869,381					
<b>Amount in US dollars</b>			1,857,938						
<b>Total amount in US dollars</b>			8,074,033.55						

### Penalty statistics as of 2020 Q1

#	Cash movement	USD	CNY	KRW	HKD	Penalty imposed	
						MNT	USD
1	in	14,085	10,300			6,377,999	2,296.11
2	In		3,780	6,003,000		2,356,551	848.37
3	In				178,636	10,370,000	3,733.25
4	Out			7,894,737		2,700,000	972.01
5	Out			56,000,000		19,656,000	7,076.26
	Total	14,085	14,080	69,897,737	178,636	41,460,550	14,296.00
		Gold, gr	Silver, gr				
1	In		2,000				
2	Out	31					
3	Out	1,312					
	Total	1,343	2,000				

### Law on Combating Money Laundering and Terrorism Financing

#### Article 15. Transportation of cash across the borders of Mongolia

15.1. Travellers carrying more than 15 million tugriks or equivalent amount of foreign currency, bearer negotiable instruments, e-money across the Mongolian border shall declare faithfully in the Customs declaration forms.

15.2. Mongolian Customs General Administration shall consolidate cash declarations made under Article 15.1 of this Law and transmit to the FIU every month according to the relevant regulations.

15.3. The Format of declaration forms for the purpose of Article 15.2 shall be approved by the Head of the Mongolian Customs General Administration in consultation with the Head of the FIU.

*(b) Observations on the implementation of the article*

Mongolia has a written declaration system for cash and bearer negotiable instruments upon entry to or departure from the country, if the value of such cash or instruments is equal to or exceeds 15 million tugriks (about 4,300 dollars) or its equivalent in another currency (art. 15 of the Law on Combating Money-Laundering and Terrorism Financing). The country's legislation does not define bearer negotiable instruments.

The authorities explained during the country visit that although the Law on Combating Money-Laundering and Terrorism Financing does not explicitly provide for the possibility to freeze or restrain currency or BNIs in case of suspicion, this could be done on the basis on art. 30.7 of the Criminal Procedure Code.

**It is recommended that Mongolia consider defining bearer negotiable instruments subject to cross-border declarations.**

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Paragraph 3 (a):

Under the AML/CFT Law, for the purposes of CDD, reporting entities 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<sup>51</sup>, 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

<sup>51</sup> English version of PMR at: <https://www.mongolbank.mn/file/cace8a292f83dd83fa8b66004fdf4fd4/files/r1.pdf>



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):

Under Article 8.1 of the AML/CFT Law, reporting entities 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 Article 6.1 of the PMR, ~~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 Central 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. reporting entities 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. reporting entities should assess risks and take enhanced due diligence measures for high risk customers, enhanced monitoring on the account and transactions. reporting entities are obligated to refuse to provide service if a customer refuses to provide information.

Under the Section 5 of Article 11.29 of Infringement Law, in case reporting entity provided service to person, legal entity that refused to give required information to such reporting entity in accordance with customer due diligence, the assets and income equal to the amount of the violating transaction shall be confiscated and the person shall be fined for three thousand units and a legal entity shall be fined for thirty thousand units.

Law on Combating Money Laundering and Terrorism Financing

5.2.6. entities shall 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.

5.10. Wire transfers received, intermediary processed, and transferred by the entities described in Article 4.1 of this law shall contain originator and beneficiary information. The financial institution should not execute the wire transfer if it does not comply with the requirements specified above.

Preventive measures regulation on combating money laundering and terrorist financing

## 12. WIRE TRANSFERS

12.1 Reporting entities that engage in cross border wire transfers shall include accurate originator and recipient information on wire transfers and related messages and ensure that the information remains with the wire transfer or related message throughout the payment chain.

Information accompanying all wire transfers should always contain:

12.1.1 The full name of the originator;

12.1.2 The originator account number where such an account is used to process the transaction;

12.1.3 The originator's address, or national identity number, or customer identification number, or date and place of birth;

12.1.4 The name of the recipient and the recipient account number where such an account is used to process the transaction.

12.5 For domestic wire transfers (including transactions using a credit or debit card as a payment system to effect a money transfer), the ordering reporting entity must include either:

12.5.1 full originator information in the message or payment form accompanying the wire transfer; or

12.5.2 only the originator's account number, where no account number exists, a unique identifier, within the message or payment form.

12.7 For 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.

12.9 Reporting entities should have effective risk-based procedures for determining:

12.9.1 when to execute, reject, or suspend a wire transfer lacking required originator or required beneficiary information and considering reporting to the FIU;

12.9.2 the appropriate follow-up action which may include restricting or terminating business relationships.

Intermediary financial institutions

12.11 For cross-border wire transfers, an intermediary financial institution must ensure that all originator and beneficiary information that accompanies a wire transfer is retained with it.

12.21 If the reporting entity is unable to comply with these requirements, it shall not execute the wire transfer.

## **Examples of implementation**

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 (quarterly) 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); [www.gia.gov.mn](http://www.gia.gov.mn); [www.fiu.mongolbank.mn](http://www.fiu.mongolbank.mn); [www.amlcft.mn](http://www.amlcft.mn); [www.frc.mn](http://www.frc.mn) and also placed urgent contact information.

**The overall supervision statistics on FIs and DNFBPs of TFS PF obligation /from January to May, 2020/**

Supervising authorities	REs	Offsite supervision /Questionnaire/	Rectification order	Onsite supervision	Rectification order	Warning letter	Enforcement measures taken	Scheduled onsite supervision
BoM	Banks	13	-	13	13	-	-	13
FRC	NBFIs	538	213	8	3	5	1	10
	SCCs	275	148	4	-	4	-	2
	Securities	53	21	4	-	4	-	5
	Insurances	73	36	3	3	-	-	1
	REAs	150	150	11	11	-	-	5
	DPMS	230	230	3	3	-	-	6
SRBs	Lawyers and Law firms	228	194	21	1	20	5	14
	Accountants and auditors	64	26	7	1	6	-	10
	Notaries	160	125	15	9	6	2	40
Total		1784	1143	89	42	45	8	106

*(b) Observations on the implementation of the article*

Mongolia complies with the provisions of this Article.

Pursuant to article 5 of the Law on Combating Money-Laundering and Terrorism Financing and article 12 of the preventive measures regulation on combating money-laundering and terrorist financing, wire transfers of funds must include the required and accurate information on the originator and the beneficiary. Effective risk-based procedures must also be applied to determine whether to execute, reject or suspend a transfer of funds where required information on the payer or the payee is missing. Intermediary financial institutions are also obliged to maintain such information throughout the payment chain.

The authorities explained during the country visit that hawala was illegal in Mongolia.

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

To ensure the cooperation on the international level and information sharing possibility, the AML/CFT Law states that the FIU should cooperate with foreign and international organizations with similar functions and of the same level of confidentiality requirements in accordance with respective legislation.

**Examples of implementation**

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 has been established 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 221 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 Cooperation Council (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.

*(b) Observations on the implementation of the article*

The Mutual Evaluation Report published by the Asia/Pacific Group on Money Laundering in September 2017 shows that Mongolia has addressed many of the shortcomings identified in the earlier report of July 2007, including those related to preventive measures and supervision. Additional, follow-up reports show that further progress has been made to address many of the deficiencies identified in the Mutual Evaluation Report of 2017.

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

- 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 cooperation. The FIU has signed a Memorandum of Understanding with 21 countries, including regional partner countries. The FIU became a member of the Egmont Group, an international group of FIUs of the world in 2009. As a member of Egmont Group, the FIU has been exchanging information with other FIUs 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.

**Examples of implementation**

Between 2016-June 2019, the IAAC 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 IAAC 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 an 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 than 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 met 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 Jakarta, 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 was held in Ulaanbaatar from 23 to 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).

#### *(b) Observations on the implementation of the article*

Mongolia complies with the provisions of this Article.

Mongolia actively contributes to the development and strengthening of regional and international cooperation in the fight against money-laundering, in particular through its participation in the Asia/Pacific Group on Money Laundering and the Egmont Group.

#### *(c) Successes and good practices*

Mongolia actively contributes to the development and strengthening of regional and international cooperation in the fight against money-laundering, in particular through its participation in the Asia/Pacific Group on Money Laundering and the Egmont Group.

## V. Asset recovery

### Article 51. General provision

#### *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.*

#### *(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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 Khural (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 Khural, 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.

#### **Examples of implementation**

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.

*(b) Observations on the implementation of the article*

Mongolia has not established a comprehensive legal framework for international cooperation and asset recovery. Asset recovery is governed by the general provisions on mutual legal assistance in criminal matters of the Criminal Procedure Code (art. 42.1–42.6), in addition to relevant bilateral and multilateral treaties to which Mongolia is a party.

The Ministry of Justice and Home Affairs is the central authority for mutual legal assistance, including with regard to asset recovery. The Ministry forwards incoming requests for mutual legal assistance to the General Prosecutor's Office, which monitors the execution of the requests by the investigation office.

Requests can be sent directly or through the diplomatic channel.

According to article 48.1.12 of the Law on the Prosecution Service, the General Prosecutor's Office can establish direct contact and cooperate with foreign competent authorities and other international organizations. Between 2016 and 2021, the General Prosecutor's Office established 10 MOU, 2 treaties and 2 agreements on cooperation, a total of 14 treaties and agreements with foreign prosecutor's offices and other agencies to facilitate and secure the swift exchange of information. The Office is also the national point of contact for the Asset Recovery Inter-Agency Network for Asia and the Pacific (ARIN-AP).

With regard to asset recovery, Mongolia can cooperate on the basis of reciprocity and regardless of the existence of a treaty. The same set of measures and procedures that are available in domestic criminal proceedings apply in the context of international cooperation. The country implements the provisions of the Convention directly in cases where no relevant agreement applies (art. 10, para.



3, of the Constitution).

Mongolia has recovered assets located abroad in three cases and returned assets to one country (Republic of Korea).

Mongolia does not have a case management system for international cooperation and asset recovery requests that would allow comprehensive statistics on incoming and outgoing requests for international cooperation to be generated<sup>52</sup>.

**It is recommended that Mongolia establish a comprehensive legal framework for international cooperation and asset recovery.**

**Furthermore, Mongolia is encouraged to develop a case management system for international cooperation and asset recovery requests.**

*(c) Technical assistance needs*

- Assistance with strengthening the legal framework for international cooperation and asset recovery.
- Assistance with building a comprehensive legal framework for the management of returned stolen assets.

## Article 52. Prevention and detection of transfers of proceeds of crime

### *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.*

### *(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Customer Due Diligence: Identification and Verification

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<sup>52</sup> Developments after the Country visit as reported by Mongolia: As of 2023, the General Prosecutor's Office maintains the registry for incoming and outgoing MLA requests in its internal electronic system. As a sole entity in charge of overseeing criminal inquiry and investigation in Mongolia, a prosecutor handles an incoming and outgoing MLA request, thus a prosecutor is obliged to keep records of a request in the system.

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 Article 4.1 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 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 reporting entities 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 FIU within 24 hours in accordance with approved procedures and formats. Article 12 and 13 of the law states that submitting of reports by reporting entities to the FIU 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.

*(b) Observations on the implementation of the article*

Financial institutions and designated non-financial businesses and professions are subject to money-laundering requirements, in accordance with the Law on Combating Money-Laundering and Terrorism Financing and relevant orders, regulations and guidelines issued by the supervisory authorities, including the preventive measures regulation on combating money-laundering and terrorist financing issued by the Central Bank of Mongolia.

These requirements cover customer due diligence measures (art. 5 of the Law on Combating Money-Laundering and Terrorism Financing), including customer identification and verification, beneficial owner identification (art. 4 (1) of the Law), ongoing monitoring of transactions, periodic and continuous updating of data, record-keeping (for a term of five years, pursuant to art. 8 of the Law), and reporting of suspicious transactions to the FIU (art. 7 of the Law). The requirements also include assessment of the risk of money-laundering and the taking of appropriate measures to manage that risk (art. 5.3 of the Law), and the application of enhanced due diligence in relation to high-risk customers, accounts and transactions, including the accounts of domestic and foreign politically exposed persons (art. 6 of the Law). The preventive measures regulation on combating money-laundering and terrorist financing extends the application of enhanced due diligence to the family members and close associates of politically exposed persons (art. 6.3 of the regulation).

The authorities explained during the country visit that the PMR was also applicable to DNFBPs.

The Mongolian Banker associations explained during the country visit that it is in the process of developing a list of national PEPs, in consultation with the IAAC. Currently, each bank has its own list of PEPs.

*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*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Under 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 reporting entities for compliance with AML/CFT obligations. Under this provision, Mongolia has issued the following resources to assist reporting entities 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.

*(b) Observations on the implementation of the article*

The preventive measures regulation on combating money-laundering and terrorist financing provides detailed instructions on persons, accounts and transactions that must be given particular attention (art. 2). The Central Bank of Mongolia has also issued a guidance note on risk-based management in relation to money-laundering and terrorism financing, dated 6 February 2018.

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Under Article 6 of the AML/CFT Law, reporting entities are obligated to undertake enhanced monitoring of the identification of customers. Under Article 5.3 reporting entities 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 Article 5.9. Specified measures are regulated in the PMR. Chapter 2 of the PMR regulates reporting entities to assess customers risk and take appropriate risk-based measures. Several risk factors are given under Article 2.6 for undertaking risk assessments in order to ensure that reporting entities 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, reporting entities 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.

*(b) Observations on the implementation of the article*

The authorities confirmed during the country visit there was no legal impediment for the Mongolian authorities, to notify, where appropriate, 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.

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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 reporting entities 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.

*(b) Observations on the implementation of the article*

Financial institutions are required to maintain adequate records for five years (art. 8 of the AML/CFT Law).

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

In 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 at 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 be 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 reporting entities 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.

Law on Combating Money Laundering and Terrorism Financing

3.1.7. Shell bank means a bank whose management and operations have no physical presence in at country in which it is registered and licensed, and which is unaffiliated with a regulated financial



group that is subject to effective consolidated supervision.

5.7. Entities described in Article 4.1.1, Article 4.1.2, Article 4.1.3, Article 4.1.4, Article 4.1.5, Article 4.1.6 to Article 4.1.7 shall be prohibited from the following:

5.7.1. Entering into correspondent banking relationships with shell banks;

5.7.2. Entering into correspondent banking relationships with banks that have relationships with the shell banks;

5.7.3. To continue correspondent banking relationship with shell banks, if it had previously entered into relationship.

#### Banking Law

##### Article 20. Documents to be furnished

20.1. In addition to documents required under Articles 17.1 and 21 of the Law on State Registration of Legal Entities, founders and shareholders of a bank shall furnish the following documents:

20.1.1. an application for a banking license;

20.1.2. founding agreement (not applicable in case of one founder);

20.1.3. the charter of the bank;

20.1.4. feasibility study for the bank;

20.1.5. name and address of founders and qualifying shareholders, and financial statements of last three years of their related parties audited by firms that meet the requirements stipulated in the Law;

20.1.6. detailed description of management, personnel, technical facilities and premises of the bank in the templates set by the Central Bank of Mongolia;

20.1.7. proof of the amount of capital invested in the bank, sources, and origin of the funds.

#### *(b) Observations on the implementation of the article*

The procedures for the establishment of banks (art. 20.1.6 of the Banking Law) prohibit the establishment of shell banks. The Law on Combating Money-Laundering and Terrorism Financing prohibits banks from having correspondent relationships with shell banks or with banks that provides correspondent services to shell banks (art. 5.7). According to article 3.1.7 of the Law, a “shell bank” means a bank whose management and operations have no physical presence in the country in which it is registered and licensed, and which is unaffiliated with a regulated financial group that is subject to effective consolidated supervision.

#### *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.*

#### *(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the**

**following information:**

According to Article 3.1.5 of the AML/CFT law “Politically exposed person” is an individual defined in Article 20.2 of the Conflict of Interest Law, 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. 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 reporting entities 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.

**Anti-Corruption Law**

Article 4. Persons subject to this Law

4.1 The following persons are subject to this Law:

4.1.1. Persons who hold executive or managerial position in the political, administrative or special office of the State;

4.1.2. Persons who hold executive or managerial position in the public service, or who is the general or senior accountant at such place

4.1.3. Managers or authorised employees of legal entities in which the State or the local administration has full or partial equity interest;

4.1.4. The National Council Chairperson and the General Director of public radio and television;

4.1.5. Managers and executive officers of non-governmental organizations, temporarily or permanently performing particular State functions in compliance with legislation;

4.1.6. Candidates for President of Mongolia, Parliament or all levels of Citizens' Representative Khural;

4.1.7. Directors and representatives from all levels of Citizens' Representative Khural; and

4.1.8. Public officials who have been included in the list approved by an authorised entity.

4.1.9. The competent official and member of supervisory board of Future Heritage Fund Corporation stipulated in provision 4.1.7 of Law on Future Heritage Fund.

**CHAPTER THREE**

**SUBMISSION OF ASSETS AND INCOME DECLARATIONS**

**Article 10. Income and Assets Declarations**

10.1. Persons specified in provision 4.1. of this Law /further referred to as “declarers”/ shall submit income and assets declarations and if required the Legal Standing Committee of the State Great Khural shall approve upon the proposal of the Anti-Corruption Agency the list of officials who must submit income and assets declarations.

10.2. The declarer shall be obliged to provide true and accurate statement/declaration of his/her income and asset, as well as income and assets of his/her family members.

10.3. The declarers shall have the duty to submit to organizations and officials specified in Article 11 of this Law 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.

10.4. 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 within the timeframe specified in Article/provision 10.3 herein the declarer shall notify the changes within 30



days.

10.5. In case income and assets declarations were submitted later than the timeframe specified in provisions 10.3. and 10.4. of this Law without justified reason this shall be considered as non-submission.

10.6. Candidates in the elections of the President of Mongolia shall submit their income and assets declarations to the General Election Commission, candidate in the elections to the State Great Khural to the election district committee, candidates in elections to Khurals of Citizens' Representatives of all levels to their respective aimag, capital city, soum, district election committees within the timeframe specified in the Law on Elections.

10.7. The Legal Standing Committee of the State Great Khural shall approve the format of income and assets declarations and procedures for their registration and maintenance.

### **Article 11. Registration and Maintenance of Income and Assets Declarations**

11.1. The following organizations and officials shall be responsible for registration and maintenance of income and assets declarations within the timeframe specified by law:

11.1.1. The Anti-Corruption Agency shall be responsible for income and assets declarations of the President, members of the State Great Khural, Prime-Minister, members of the Government of Mongolia as well as of officials appointed by the State Great Khural, the President and the Government;

11.1.2. The Legal Standing Committee of the State Great Khural shall be responsible for income and assets declarations of senior and executive officials of the Anti-Corruption Agency;

11.1.3. The General Council of Courts shall be responsible for income and assets declarations of members of the Constitutional Court and of judges of all level courts;

11.1.4. Offices of Khurals of Citizens' Representatives of respective level shall be responsible for income and assets declarations of members of aimag, capital city, soum, district Khurals of Citizens' Representatives;

11.1.5. Income and assets declarations of other officials shall be responsibility of senior officials with power to appoint or supervise them.

11.2. Income and assets declarations of candidates in the elections of the President of Mongolia, the State Great Khural and Khurals of Citizens' Representatives of all levels shall be registered and submitted to the General Election Commission as stipulated in the relevant law by the General Election Commission, district election committees and aimag, capital city, soum, district election committees respectively.

11.3. The organizations and officials mentioned in provisions 11.1.4. and 11.1.5. of this Law responsible for the registration of income and assets declarations shall prepare implementation reports upon completion of receiving income and assets declarations in the timeframe specified in provision 10.3. of this Law within 14 days and submit the report to the Anti-Corruption Agency together with the name list of declarers.

11.4. The General Election Commission mentioned in provision 11.2. of this Law after the consolidated results of the given elections were made public shall submit income and assets declarations of elected persons to the Anti-Corruption Agency within 14 days after completion of voting.

11.5. The Anti-Corruption Agency shall submit information on implementation of the legislation concerning income and assets declarations annually by 15 April to the Legal Standing Committee of the State Great Khural.

### **Article 12. Correspondence confidentiality**

12.2 An official responsible for the registration of assets and income declarations is prohibited from disclosing information about the declarer, or any other information stipulated in Article 12.1 of this Law, or to use it for any purpose without the permission of the declarer, except in cases otherwise

permitted by law, while the declarer is serving or after ceasing to work in the same position.

### **Article 13. Review of Income and Assets Declarations and Liability Grounds**

13.1. The Anti-Corruption Agency shall review and analyze income and assets declarations of officials other than mentioned in provision 11.1.2. of this Law.

13.2. The Ethics Sub-Committee of the State Great Khural shall review income and assets declarations of members of the State Great Khural and the Legal Standing Committee of the State Great Khural shall review income and assets declarations specified in provision 11.1.2. based on claims and complaints and shall transfer them to the relevant authorities if the violations require criminal offence.

13.3. Officials in charge of registration of income and assets declarations shall have the duty to examine whether the declarations are filled fully and correctly and submitted in due time, to demand preparation of declarations in accordance with the procedures and in case of violations to carry out inspection within their power or transfer to the Anti-Corruption Agency for investigation.

13.4. If members of the State Great Khural are concurrently members of the Government the income and assets declarations shall be reviewed by Independent Authority Against Corruption.

13.5. The Anti-Corruption Agency may carry out inspection in pursuit of claims, complaints and information or in accordance with its monitoring plan.

13.6. The Anti-Corruption Agency shall inspect income and assets declarations of the persons specified in provision 4.1. of this Law in case they failed to submit income and assets declaration in due time or to indicate the sources of their income and assets or to provide viable explanation as to how they got their income and assets.

13.7. Declarers shall have the duty to provide realistic and accurate explanation on the sources of their assets and income.

13.8. In case if declarers were late to submit their income and assets declarations, or failed to register them, or provided false information, they shall bear the following liabilities:

13.8.1. Reprimand if the declarer failed to declare income and assets equal to his/her monthly salary or declared falsely or the submission of income and assets declaration later than specified in provisions 10.4. and 10.5. of this Law had justified grounds;

13.8.2. Reduction of salary by 30 per cent for up to three months, in case if declarer failed to declare income and assets equal up to 6 times his/her monthly salary, or declared falsely, or repeatedly submitted income and assets declaration after deadline;

13.8.3. Demotion from the position or reduce salary by 30 per cent for up to three months, in case if declarer failed to declare income and assets higher than 6 times his/her monthly salary, or declared falsely;

13.8.4. Dismissal from the position or firing from job if declarer failed to declare income and assets equal to, or higher than his/her annual salary, or provided false information, or failed to submit or refused to submit income and assets declaration.

13.9. The competent organization or official shall impose disciplinary sanctions, including reduction of salary by 30 percent for up to three months, or demotion in case of repeated infringements, if officials failed to perform their duty related to registration and monitoring of income and assets declarations, or to submit the relevant documents within the timeframe specified in provision 10.3 of this Law.

### **Article 14. Public disclosure of assets and income declarations**

14.1. Asset and income declarations of officials shall be published regularly in the Government News Magazine within the second quarter of each year, and placed on Internet:

14.1. The asset and income declarations of the following officials shall be published in electronic information system within second quarter of that year:

14.1.1 The President of Mongolia;

- 14.1.2. The State Great Khural Speaker, Deputy Speaker and members;
- 14.1.3. The Prime Minister, Cabinet members, ministers and deputy ministers;
- 14.1.4. The Chairperson, Deputy Chairperson and members of the Constitutional Court;
- 14.1.5. The Chief Justice of the Supreme Court, judges of the State Supreme Court, the Executive Secretary of the Court General Court Council;
- 14.1.6. The Prosecutor General and the Deputy Prosecutor General;
- 14.1.7. The President, 1<sup>st</sup> Vice President and Vice President of Mongol Bank;
- 14.1.8. The Secretary of the National Security Council;
- 14.1.9. The Head of the Prime Minister's Cabinet Secretariat;
- 14.1.10. The Head of the President's Chancellery;
- 14.1.11. The General Secretary of the State Great Khural Secretariat;
- 14.1.12. The Chairperson and the Deputy Chairperson of the Anti-Corruption Agency;
- 14.1.13. The Chairperson and members of the Financial Coordination Committee, and the Chairperson and members of the Control Council;
- 14.1.14. The Chairperson and Deputy Chairperson of the National Statistical Bureau;
- 14.1.15. The Chairperson and members of the National Human Rights Commission;
- 14.1.16. The Chairperson and Secretary of the General Election Committee;
- 14.1.17. The Chairperson and members of the Government Service Council;
- 14.1.18. The Auditor General and Deputy Auditor General;
- 14.1.19. The Directors of Government agencies;
- 14.1.20. The Chairperson of Aimag and the capital city Citizens' Representatives' Khurals;
- 14.1.21. The Aimag Governors and the capital city Mayor;
- 14.2. Assets and income declarations of persons, other than those specified in Article 14.1. of this Law shall be open to the public.
- 14.3. Assets and income declarations filed for the prior five years by persons specified in Article 4.1. of this Law shall be posted on the Anti-Corruption Agency's Website to ensure citizens' access to this information.
- 14.4. Citizens may request information in writing, orally, or from Internet, and the Anti-Corruption Agency shall approve the information disclosure procedures.
- 14.5. The Anti-Corruption Agency shall inform the public on an annual and regular basis how officials adhere to the procedures for presenting their assets and income declarations.

#### **Article 15. Anti-Corruption Agency**

15.1. 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.

#### **Article 18. Functions and mandate of the Anti-Corruption Agency**

18.2. The Anti-Corruption Agency shall assume the following functions to investigate assets and income declarations:

18.2.1. Conduct training, issue manuals and instructions regarding the correct and accurate declaration of assets and income;

18.2.2. Upon written or oral request, provide guidance on how to complete, amend, register or transfer the declarations, and respond in writing in a manner that protects the confidentiality of answers;

18.4. The Anti-Corruption Agency shall exercise the following mandate:

18.4.13. Obtain from each respective authority the list of government officials due to declare their assets and income, and review the declarations;

18.4.14. Supervise the competent organizations' and officials' adherence to the procedure for registering, storing, and monitoring declarations of assets and income declarations, and provide them with information;

18.4.15. Conduct revision on asset and income declarations of declarers and transfer to the competent authority for action to impose sanctions stipulated in related law on those declarers who failed timely submission or committed false declaration.

18.4.16. Prepare written guidance and recommendations on matters related to assets and income declarations;

18.4.17. Cooperate with respective foreign and international organizations, and exchange information related to combating corruption;

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 Khural (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 absence of conflict of interest statement and the report on the 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.

Summary of income and asset of all high-level public officials including the President of Mongolia, Chairman 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 an 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.

As per amendment to the Anti-Corruption Law of December 2019, an Asset and Income Declaration of a candidate for President and member of the Parliament is filed with IAAC.

### **Examples of implementation**

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

### *(b) Observations on the implementation of the article*

Mongolia has established a comprehensive financial disclosure framework.

Articles 10 to 14 of the Anti-Corruption Law require a range of public officials, in addition to candidates for the presidency, the Parliament and citizens' representative khurals, to declare their income, assets and liabilities, and those of their family members. The declarations cover assets, including financial accounts, held domestically or abroad, and should be submitted annually (by 15 February) and within 30 days of the date of employment, but not at the end of service. A declaration should also be submitted whenever there is a substantial change to declared income and assets.

IAAC is the main body in charge of receiving and verifying asset and income declarations. Depending on the person subject to the declaration, one of three other bodies may be responsible for receiving asset and income declarations, namely, the Legal Standing Committee of the State Great Khural for the declarations of senior and executive officials of IAAC, the General Council of Courts for the declarations of members of the Constitutional Court and of all judges, and the General Election Commission for the declarations of electoral candidates.

The authorities explained during the country visit that in practice, the IAAC manages all the asset declaration framework given that all declarations are submitted through the e-system which is administered by the IAAC.

The electronic submission of declarations through the IAAC website began in 2011 and became mandatory in 2018. The system automatically assesses the potential risks on the basis of stored data and raises red flags depending on certain predefined criteria. In 2019, IAAC launched a pilot system for the electronic submission of preliminary declarations by candidates for public positions.

The declarations of high-ranking officials are published on the IAAC website and in the Government news magazine (art. 14.1); the declarations of all other declarants are made available to the public (art. 14.2).

The Anti-Corruption Law sets out disciplinary penalties ranging from reprimand to dismissal from office if a declaration is not submitted or incorrect data are submitted (arts. 13.8 and 13.9). Sanctions have been imposed for non-compliance with the declaration requirements. IAAC conducts investigations into red-flagged declarations and will refer the matter to the General Prosecutor's Office to open a criminal investigation if there is sufficient evidence that a crime (e.g. illicit enrichment) has been committed.

The law does not preclude the possibility of sharing relevant information with foreign competent authorities. The authorities explained during the country visit that liabilities were included in the asset declaration template approved by the Parliament. They have also confirmed that declarations include all assets, whether held domestically or abroad. The authorities further explained that "family members" are defined in article. Art. 3.14. of the family Law and include spouses, minor children, in addition to members living with the subject person in the same home.

The authorities also informed the review team during the country visit that Mongolia started implementing asset declaration in 1996. It is currently benefiting from the support of the WB. IAAC check if the official completed the form (system check), then review and analyse the information based on a red-flag system (on the basis of risks), then conduct in-depth investigations in case of suspicions. IAAC has 9 dedicated staff working on asset declarations.

IAAC does not have sanctioning power. It only recommends the responsible authority to impose sanctions. If the authority does not implement IAAC recommendation, it could be sanctioned by IAAC (art. 6.6.6 and art. 33.1 of the ACL). In cases of suspicion of illicit enrichment (Criminal Code, art. 2.10), IAAC will forward the case to the GPO. In 2021, 64 cases of Illicit enrichment were under investigation.

MPs declare their assets, but IAAC does not investigate these. Only the Ethical Commission can do this. Locally elected officials also are required to declare, IAAC can investigate but cannot recommend sanctioning measures in cases of violation. IAAC can however open a criminal case.

In 2021, IAAC reviewed the asset declarations of more than 500 judges. Violations were forwarded to the Judicial Disciplinary Commission.

**It is recommended that Mongolia consider reviewing its financial disclosure framework to also require appropriate public officials to declare their assets and liabilities at the end of service.**

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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(1). Prohibition related to ownership of bank account, movable and immovable properties and incorporation of legal entities

10(1).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(1).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(1).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(1).4. If the elected or appointed nominee in article 10(1).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(1).4.1. Closure of opened bank account

10(1).4.2. Re-transfer the placed funds in the bank account

10(1).4.3. Sell, transfer or re-obtain ownership rights of movable and immovable properties

10(1).4.4. Suspend the operation, sell possession, exploitation and allocation rights, transfer, terminate legal entities incorporated through shareholding

10(1).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(1).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(1).6. Execution of duties in articles 10(1).2, 10(1).4 of this law shall not constitute or possible constitution of conflict of interest.

10(1).7. Breach of articles 10(1).1, 10(1).2, 10(1).4, 10(1).5 of this law shall be the foundation for dismissal of the public official.

#### Conflict of Interest Law

Article 10(1). Prohibitions and restrictions on holding bank account, owning movable or immovable asset or establishing legal entity in offshore region

10(1).1. the official or his/her related person subject to issuing declarations on private interest and asset and income is prohibited from opening bank account on his/her name, depositing monetary assets, owning movable or immovable asset or founding legal entity by merging in offshore region during his/her tenure.

10(1).2. if the candidate or his/her related person for public position which is appointed or elected according to requirements stipulated by the law opened bank account on his/her name, deposited monetary asset, owned movable or immovable asset, founded legal entity by merging in offshore region shall inform the pertinent authority in advance.

10(1).3. the foreign country, its territory subject to offshore region shall be determined by the Government based on proposal by the Central Bank of Mongolia and State administrative central body in charge of financial affairs taking into account a list issued by the international economic, banking and financial institute.

10(1).4. in case the candidate stipulated in provision 10(1).2 of this law elected or appointed, if the official or his/her related person opened bank account, deposited monetary asset, owned movable or immovable asset or founded legal entity by merging he/she shall take the following measures within 3 months and declare changes and incomes made in ownership status within 30 days to the Independent Authority Against Corruption: 10(1).4.1. close the opened bank account; 10(1).4.2. withdraw monetary asset deposited in the bank; 10(1).4.3. transfer, sell or withdraw entitlement to the movable or immovable asset; 10(1).4.4. cease the operation, sell, transfer or end entitlement to use, possess or dispose if founded legal entity by merging.

10(1).5. the provision 10(1).1 of this law shall not apply if the official and his/her related person opened bank account, deposited monetary asset, owned the movable or immovable asset during study, work, medical treatment or exercise of the official duty in foreign country, and its territory subject to the offshore region. If opened bank account, deposited monetary asset, owned movable or immovable asset in foreign country and its territory subject to offshore region in order to study, receive medical treatment other than exercising official duty obligated by the law, the official or the related person shall inform the Independent Authority Against Corruption in written form.

10(1).6. the fulfilment of duty stipulated in provisions 10(1).2, 10(1).4 of this law shall not be considered as bases for occurrence of conflict of interest or situation suggesting the conflict of interest.

10(1).7. the violation of provisions 10(1).1, 10(1).2, 10(1).4, 10(1).5 of this law shall be considered as a basis for withdrawing the official from his/her public post.



*(b) Observations on the implementation of the article*

Financial accounts held in a foreign country in the name of public officials or their family members are covered by the asset declaration requirements.

Although article 10 of the Conflicts of Interest Law prohibits public officials and persons related to them (parents, siblings, other family members, cohabitant, spouse's parents and siblings, partner and other related parties) from opening bank accounts in their names in determined offshore jurisdictions, Mongolia has not adopted measures requiring public officials having a signature or other authority over a foreign financial account to report that relationship to appropriate authorities and to maintain appropriate records related thereto.

During the country visit, the authorities explained that the cabinet makes the list of offshore Jurisdictions. 49 Jurisdictions are currently on that list.

**It is recommended that Mongolia consider adopting measures requiring public officials having a signature or other authority over a foreign financial account to report that relationship to appropriate authorities and to maintain appropriate records related thereto.**

**Article 53. Measures for direct recovery of property**

*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;*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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. 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 Anti-corruption 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”.

#### Civil Code

##### Article 2. Civil Legislation

2.1. Civil Legislation shall consist of the Constitution of Mongolia, this Law and other legislative acts adopted in compliance with them.

2.2. If the International Treaty of Mongolia stipulates otherwise, the International Treaty shall be observed.

##### Article 7. Participants to civil legal relationship

7.1. Citizens, juridical/legal persons and organizations without legal status shall be participants to civil legal relationship.

7.2. Mongolian and foreign citizens, individuals without citizenship participating in the civil legal relationship shall be deemed as citizens.

7.3. Aimags, the capital city, soums, districts, as State, administrative and territorial units, may enter into civil legal relation like other legal entities.

##### Article 25. Legal person

25.1. Legal person shall be an organised unity with concrete mission and engaged in regular activities, which is entitled to own, possess, use and dispose of its separate property, which can acquire rights and create liabilities in own name, which bears responsibility for consequences arising from own activities with its own assets, and which is capable to be defendant or plaintiff.

25.2. Legal person may be a for-profit or non-profit organisation with concrete goals specified by law or rules.

25.3. Legal person may have public or private, or mixed property.

25.4. If not otherwise provided in the Law, several legal persons may merge with the purpose to

coordinate their activities, thus merging they will retain their legal person status.

25.5. Legal status of legal persons shall be defined by law.

#### Article 106. Claiming right of owner

106.1. Owner shall be entitled to claim own asset/ property from its illegal possession by others.

#### Article 493. Requirements to property claim

493.1. The claim for property transferred to other person shall include the property, all revenues and benefits from it, a compensation for damage caused to property, destruction or confiscation.

491.2. In case it is impossible to return the property because of its deterioration or for other reasons, the party that acquired the property without grounds shall be obliged to compensate the cost of property.

#### Article 497. Liability grounds for caused damage

497.1. 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.

#### Criminal Procedure Code

##### ARTICLE 42. VICTIM

42.1. A person to whom moral, physical, or property harm is caused by a crime shall be deemed as a victim.

42.3. The victim or his representative shall have the following rights:

42.3.9. to require to be compensated losses incurred due to crime;

##### ARTICLE 43. CIVIL PLAINTIFF

43.1. A citizen, a legal entity that has suffered property or non-property damages from a crime and has brought a claim for its compensation or restoration shall be deemed a civil plaintiff.

43.2. One shall be declared a civil plaintiff by decree of an inquiry officer, investigator, or court, or by a ruling of a judge.

43.3. A civil plaintiff or his representative shall have the following rights:

43.3.1. To present evidence significant to a case;

43.3.2. to request the agency of inquiry, the investigator, and the court to take measures to secure the suit brought by him;

43.3.3. to participate in the judicial session;

43.3.4. to support or withdraw the civil suit;

43.3.5. to become familiar with the materials or the case from the moment the investigation is completed;

43.3.6. to submit challenges to inquiry officer, investigator, procurator, translator, interpreter, judge, citizens' representative and secretary of a judicial session;

43.3.7. to submit complaint with respect to actions and decisions of inquiry officer, investigator, procurator and court;

43.3.8. to appeal from the Judgement of the court in so far as it concerns the civil suit.

43.4. Civil plaintiff shall be obliged to submit documents and evidence in his/her possession relevant to his/her civil suit upon request of inquiry officer, investigator, procurator, and court.

##### ARTICLE 76. LIMITATION OF POWER TO ADMINISTER AND DISPOSE ASSETS

76.1. In order to ensure decisions on civil suit or on protection of assets, court, procurator, and inquiry officer or investigator may issue a decree and with the permission of a procurator may limit the right of suspect, accused, defendant or persons responsible for an asset to administer and dispose assets.

76.2. In limiting the right to administer and dispose assets, owner or possessor of assets shall be

obligated not to transfer the assets to others or, if necessary, not to use the assets or the assets in question shall be made available for preservation.

76.3. Rights of administration and disposal for assets prohibited to be made available for payments, as provided by Law, shall not be limited.

76.4. An expert in asset valuation may be involved in executing measures for limiting the right of administration and disposal of assets.

76.5. Rights of administration and disposal of monetary assets placed at a bank or other financial institutions may be limited.

## CHAPTER FIFTEEN

### CIVIL SUIT IN CRIMINAL PROCEEDINGS

#### ARTICLE 115. CIVIL SUIT IN A CRIMINAL CASE

115.1. A citizen, economic entity, and organization that have suffered material damages because of a crime shall have the right to bring a civil suit in respect of a suspect, accused, defendant or a person bearing material responsibility for the damages caused by them and the suit shall be reviewed and resolved by a court jointly with the criminal case.

115.2. A civil suit in a criminal case shall be exempt from State stamp duty.

115.3. It shall be prohibited to resolve a civil suit in respect of damages caused due to a crime through civil proceedings while the criminal case is not resolved.

#### ARTICLE 116. BRINGING A CIVIL SUIT

116.1. A civil suit may be brought at any stages from the moment a criminal case is initiated until the beginning of court litigation.

116.2. If a civil suit in a criminal case has not been brought to a court within a period specified in Article 116.1. of this Law or a civil suit has been left unconsidered, a citizen, economic entity or organization shall have the right to bring it by way of civil proceedings.

#### ARTICLE 117. IDENTIFYING A CIVIL PLAINTIFF

117.1. If a citizen or a legal entity has suffered damages because of a crime an inquiry officer, investigator, procurator or court shall advise them their right to bring a civil suit.

117.2. A decision shall be made in respect of a person that has brought a civil suit identifying the person as a civil plaintiff in conformity with rules set forth in Article 43 of this Law and his/her rights and duties shall be explained.

#### ARTICLE 118. REFUSAL TO IDENTIFY A CIVIL PLAINTIFF

118.1. If grounds specified in Article 117 of this Law do not exist, acceptance of civil suit brought by a citizen or legal entity or identification of a civil plaintiff may be refused by issuing a decision that specifies the grounds for such refusal and the rules to lodge complaint against such a decision shall be explained to the person bringing the suit.

118.2. Refusal to identification of a civil plaintiff at the inquiry or investigation stage shall not serve as grounds for limiting the right to bring a civil suit at the judicial examination stage.

#### ARTICLE 119. INVOLVING A CIVIL DEFENDANT

119.1. After identifying a person liable for damages caused because of a crime, an inquiry officer, investigator, procurator and court shall issue a decree on involving the respective person as a civil defendant according to rules set forth in Article 43 of this Law and the decree shall be presented to the defendant, his/her representative and his/her rights and duties shall be explained.

#### ARTICLE 120. SIZE OF DAMAGES AND APPLICATION OF RULES FOR DETERMINING THE METHOD, GROUNDS AND CIRCUMSTANCES OF REPARATION

120.1. If a civil suit is brought in relation to a criminal case the size of damages and the method, grounds and circumstances of reparation of the damages shall be determined by Civil Law, Labor Law and other laws of Mongolia.

120.2. International agreements and provisions of foreign laws may be applied if it is provided by law.

#### ARTICLE 121. WITHDRAWING A CIVIL SUIT

121.1. A civil plaintiff shall have the right to withdraw from a suit brought by him/her.

121.2. Request to withdraw from a civil suit shall be noted in the records of inquiry, investigation, or court session or, if submitted in writing, shall be attached to the file of a case.

121.3. An inquiry officer, investigator or procurator shall accept a request to withdraw from a civil suit at any stage of procedural actions and shall issue a decree in this regard.

121.4. During a judicial examination a request to withdraw from a civil suit may be submitted before a court leaves to the consultation chamber and the court shall satisfy the request.

121.5. If withdrawal from a civil suit is considered illegal or damaging to some one's rights and legal interests, an inquiry officer, investigator, procurator and court may not accept the request and shall issue a decision specifying its grounds.

#### ARTICLE 122. DECISION IN RESPECT OF A CIVIL SUIT

122.1. In issuing a sentencing decree a court shall issue a decision on fully or partially satisfying a civil suit or refusing to satisfy the demands of a suit.

122.2. In issuing an acquitting decree a court shall:

122.2.1. Dismiss a civil suit, if the fact of a crime or a defendant's involvement in a crime is not established;

122.2.2. Leave a civil suit without considering it, if actions of a defendant do not have elements of a crime.

122.3. If it is not possible to complete reparation during the review and resolution of a criminal case, the criminal case shall be resolved completely and the plaintiff shall be advised to bring the civil suit through civil proceedings, if that does not affect the determination of the guilt.

122.4. A civil suit brought through civil proceedings as prescribed in Article 124.3. of this Law shall be exempt from the State stamp duty.

#### ARTICLE 123. TAKING MEASURES TO SATISFY A CIVIL SUIT

123.1. If considered necessary, an inquiry officer, investigator, procurator and judge may take measures to satisfy a civil suit according to rules set forth in the Law on Reviewing and Resolving Civil Cases in Court.

#### ARTICLE 291. RESOLVING A CIVIL SUIT WHEN ISSUING DECREE

291.1. When issuing a decree of conviction, a court shall completely or partially satisfy the civil suit or shall deny it, depending on whether the grounds and amount of the suit have been proved.

291.2. When a decree of acquittal is issued, a court shall resolve following issues:

291.2.1. deny satisfaction of the civil suit, if the event of the crime is not established or the participation of the defendant in the commission of the crime is not proved;

291.2.2. leave the suit unconsidered in the event of acquittal of the defendant because of the absence of the elements of a crime.

291.3. When it is impossible to carry out a detailed calculation in the civil suit without postponing examination of the case, the court may acknowledge the civil plaintiff's right to satisfaction of the suit and shall transfer the question of its amount for consideration and resolution by way of civil procedure.

## ARTICLE 292. CONSEQUENCES OF REFUSAL TO OR NON-CONSIDERATION OF CIVIL SUIT

292.1. Civil plaintiff shall be deprived of his/her right to initiate civil suit in conformity with procedure of resolving civil case in court, if he/she was denied its satisfaction in the process of considering the case at judicial session.

292.2. Civil plaintiff shall have a right to reinstate the civil suit in conformity with procedure of resolving civil case in court, if the civil suit was not subject to consideration.

## ARTICLE 293. SATISFYING CIVIL SUIT

293.1. In the event that a civil suit is satisfied, a court shall have the right, before the decree takes legal effect, to issue that measures be taken to satisfy the suit, if such measures have not been taken earlier.

293.2. If court deems that property damages were caused due to a crime, when issuing a decree of conviction a court may indicate further right of [the concerned persons] to have satisfied its civil suit in conformity with civil case resolving procedure in court, even if the civil suit was not initiated.

### **Examples of implementation**

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 recognition 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, it must be executed with reference to the domestic law and regulation relating to general provision of MLA.

### *(b) Observations on the implementation of the article*

The Civil Code establishes the right of a person, whether legal or natural, domestic or foreign, to initiate an action to establish ownership of property (art. 106.1) in the courts of Mongolia. This could be done either by instituting civil proceedings or by participating in criminal proceedings (arts. 42, 43, 115–123 and 291–293 of the Criminal Code; arts. 8.2 and 8.5 of the Criminal Procedure Code).

These provisions also apply to foreign States on the basis of the principle of direct implementation of international conventions (art. 10, para. 3, of the Constitution) and on the basis of article 2.2 of the Civil Code, which establishes that “if the international treaty stipulates otherwise, the international treaty shall be observed”.

*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*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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 been 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.

**Examples of implementation**

See answer above.

*(b) Observations on the implementation of the article*

The Civil Code establishes the right of a person, whether legal or natural, domestic or foreign, to initiate an action to claim compensation for damages (art. 497.1) in the courts of Mongolia. This could be done either by instituting civil proceedings or by participating in criminal proceedings (arts. 42, 43, 115–123 and 291–293 of the Criminal Code; arts. 8.2 and 8.5 of the Criminal Procedure Code).

These provisions also apply to foreign States on the basis of the principle of direct implementation of international conventions (art. 10, para. 3, of the Constitution) and on the basis of article 2.2 of the Civil Code, which establishes that “if the international treaty stipulates otherwise, the international treaty shall be observed”.

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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”.

### **Examples of implementation**

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 Party to 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.

*(b) Observations on the implementation of the article*

Article 7.5 of the Criminal Code, on the confiscation of assets and income, establishes that income and assets gained through the commission of a crime should be allocated to damage compensation and criminal proceeding expenses, and any leftover amount should be paid into the State budget. This provision allows the courts of Mongolia to recognize another State party's claim as a legitimate owner of property when having to decide on confiscation.

**Article 54. Mechanisms for recovery of property through international cooperation in confiscation**

*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;*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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 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 "Guidance on Rendering Mutual Legal Assistance on Criminal Matters and Method for Extradition of Convicted Persons and Perpetrators" and "Form for Mutual Legal Request on Criminal Matters and Extradition Requests for Perpetrators and Convicted Persons" by 1st and 2nd appendices of the Decree No A/65 of the Prosecutor General of the State.

The guidance provides Section 4.2 of Article 4 which provides provisions on "Execution of MLA Requests on Freezing, Seizure and/or Return of Illegal Assets, Income and/or Items".

It is explicitly states that:

*1. In executing MLA Requests on Freezing, Seizure and/or Return of Illegal Assets, Income and/or Items submitted by a foreign jurisdiction, the provision provided by Section 3.1 of Article 3 of this Guidance shall be followed.*

*2. A prosecutor of Foreign Relations and MLA Requests Division shall receive the request, and shall review the following:*

*2.1. whether the beneficial ownership is identified;*

*2.2. whether the interest of a third party is affected by freezing and confiscation proceedings;*

*2.3. whether special condition for preservation, transportation and/or protection is required.*

3. *In case of disagreement by a third party in connection to seized or confiscated assets, income and items, Foreign Relations and MLA Requests Division shall notify the requesting jurisdiction in written letter.*

4. *A prosecutor and investigator who received the request, shall take measure to prevent from transaction, transfer and decomposition of illegal assets, income and/or items.*

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.

There 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.

*(b) Observations on the implementation of the article*

The country's legislation does not provide for the enforcement of foreign confiscation orders. The competent national authorities may, however, issue a domestic confiscation order pursuant to a foreign request on the basis of the general provisions of the Criminal Code (art. 7.5) and the Criminal Procedure Code (art. 42.4) that regulate confiscation and mutual legal assistance.

**It is recommended that Mongolia 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 in relation to offences established under the Convention.**

*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*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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

Article 34 of Law on Anti-corruption 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 Prosecutor General of State “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 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 State, 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.

### **Examples of implementation**

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.

## **Criminal Code**

### **18.6 Money laundering**

1. Acquiring, possessing or using property with knowing that such property is the proceeds of crime; or converting or transferring property with purpose to conceal or disguise the illicit origin of such property or to aid any person /individual or entity/ who participated in committing crime in evading the legal liability of his/her action; or the concealing or disguising of the true nature, source, location, disposition method, ownership of or rights with respect to such property shall be punishable by fine of tugriks equal to 450 to 5400 units amount, or by movement ban of 1 month to 1 year term, or imprisonment of 1 month to 1 year;

### **7.5 Compulsory measure confiscating asset and income**

[...]

- a. "Proceeds of crime" shall mean any property, asset, money derived, directly or indirectly, from committing a crime specified in Special Part of this Code, if this crime was committed in Mongolia, or, from committing a crime punishable by one year or above of imprisonment of a foreign country's law, if this crime was committed in a foreign country, profit, benefit generated from this property or asset, the value of the property or asset, and tools, instrumentalities used or attempted to be used in committing such crime.

#### ***(b) Observations on the implementation of the article***

The courts of Mongolia can order the confiscation of property of foreign origin by adjudication of an offence of money-laundering if the crime that was committed in the foreign country was punishable by a term of imprisonment of at least one year according to the foreign country's law (art.7.5 (2) of the Criminal Code).

*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.

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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.<sup>53</sup>

**Examples of implementation**

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.

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<sup>53</sup> Between 2016 and 2021, the General Prosecutor's Office established 10 MOU, 2 treaties and 2 agreements on cooperation, a total of 14 treaties and agreements with foreign prosecutor's offices and other agencies.

*(b) Observations on the implementation of the article*

Mongolian legislation provides only for conviction-based confiscation (arts. 7.2 and 7.6.6 of the Criminal Code).

**It is recommended that Mongolia consider taking measures to allow confiscation 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.**

*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;*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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 preservation, sale and place the money in a special account, or dispose of it”.

**Examples of implementation**

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.

*(b) Observations on the implementation of the article*



The country's legislation does not provide for the possibility of freezing or seizing property upon a foreign freezing or seizure order.

**It is recommended that Mongolia take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a foreign freezing or seizure order that provides a reasonable basis to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation.**

*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*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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 preservation, sale and place the money in a special account, or dispose of it".

**Examples of implementation**

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.

Example 1: 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 2: 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.

Example 3: 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 4: 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.

*(b) Observations on the implementation of the article*

The criminal investigative authorities or courts of Mongolia can issue a domestic decision to freeze or seize property upon a foreign request (art. 42.4 of the Criminal Procedure Code).

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Under Article 21.1 of the CPC and “Rule on Seizure, Document, Keeping, Protection, Transfer and Solution of Assets, Income, Evidences and Items in Criminal Cases” which adopted by the Decree

A/69 of 2021 of the Prosecutor General of State<sup>54</sup>, concludes relevant provision regarding frozen and confiscated assets, money and other items.

Furthermore, the rule provides specific provisions as to how to an investigator and/or prosecutor shall handle the illegal assets, income, evidences and items throughout the criminal proceedings as well as some detailed provisions on managing peculiar items such as perishables, artifacts, valuables, chemicals, drugs, explosives etc.

*(b) Observations on the implementation of the article*

The country's legislation does not explicitly allow competent authorities to preserve property for confiscation in the absence of a foreign request, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property.

**It is recommended that Mongolia consider taking 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.**

**Article 55. International cooperation for purposes of confiscation**

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

Prosecutor General's Office is decided to execute foreign request for seizure and confiscation,

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<sup>54</sup> Both "Rule on Seizure, Document, Keeping, Protection, Transfer and Solution of Assets, Income, Evidences and Items in Criminal Cases" and "Registration Form for Seized Assets, Incomes and Evidences" were adopted respectively by 1st and 2nd appendices of the Decree No A/69 of 20th May 2021 re-issued by the Prosecutor General of the State.

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.

#### **Examples of implementation**

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.

#### *(b) Observations on the implementation of the article*

As described under article 54 above, the country’s legislation does not provide for the possibility of freezing or seizing property upon a foreign freezing or seizure order. The competent Mongolian authorities may, however, issue a domestic confiscation order pursuant to a foreign request on the basis of the general provisions of the CC (art. 7.5) and CPC (art. 42.4) that regulate confiscation and MLA.

### *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.

#### *(a) Summary of information relevant to reviewing the implementation of the article*

Mongolia stated that it has implemented the provision under review and referred to the information provided under Article 54 and 55.

#### **Examples of implementation**

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.

#### *(b) Observations on the implementation of the article*

The Criminal Procedure Code, the Law on Prosecutors of Mongolia and the Anti-Corruption Law provide for a wide range of investigative measures available for the tracing and freezing of criminal proceeds and instrumentalities for the purpose of confiscation, which are also available in the context of mutual legal assistance, as it has been confirmed by the authorities during the country visit.

### *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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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.

**Examples of implementation**

Please see information provided under Article 54, part 3 (a).

*(b) Observations on the implementation of the article*

Article 42.2 of the Criminal Procedure Code sets out the information to be included in requests for mutual legal assistance sent to Mongolia.

*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.

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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.

**Examples of implementation**

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.

*(b) Observations on the implementation of the article*

As noted under article 51, Mongolia can cooperate in the area of asset recovery based on reciprocity and regardless of the existence of a treaty. The same set of measures and procedures that are available in domestic criminal proceedings, including those relating to the tracing, freezing, seizure and confiscation of property, are available in the context of such cooperation, as it has been confirmed by the authorities during the country visit. Mongolia implements the provisions of the Convention directly in cases where no relevant agreement applies.



*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.

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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.

*(b) Observations on the implementation of the article*

In the course of the review, Mongolia provided copies of its laws and regulations that implement article 55 of the Convention.

*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.

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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 recognized commonly, particularly UNCAC is considered as part of legal system of Mongolia.

Court use 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”.

*(b) Observations on the implementation of the article*

Mongolia does not make the measures referred to in paragraphs 1 (a) and 2 of that article conditional on the existence of a relevant treaty.

*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.

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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.

**Examples of implementation**

See answer above

*(b) Observations on the implementation of the article*



The Criminal Procedure Code does not provide for the possibility of refusing a request if the property is of a *de minimis* value.

During the country visit, the authorities explained that the Mongolian legislation does not specify a timeframe for requesting countries to provide required information. The Mongolian authorities specify such a timeframe depending on the circumstances of each request.

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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.

*(b) Observations on the implementation of the article*

During the country visit, the authorities explained that in practice, and before refusing a request or lifting provisional measures, the requesting State may be invited to provide additional documents or information.

*Paragraph 9 of article 55*

*9. The provisions of this article shall not be construed as prejudicing the rights of bona fide third parties.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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 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.

#### *(b) Observations on the implementation of the article*

In addition to establishing grounds for third persons to participate as civil plaintiffs in criminal proceedings, the Criminal Code includes a provision to preserve the rights of *bona fide* third parties in cases of confiscation that could extend to confiscation pursuant to a foreign request (art. 7.5 (5)), as it has been confirmed by the authorities during the country visit.

### **Article 56. Special cooperation**

#### *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.*

#### *(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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 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. Between 2016 and 2021, the General Prosecutor’s Office established 10 MOU, 2 treaties and 2 agreements on cooperation, a total of 14 treaties and agreements with foreign prosecutor’s offices and other agencies 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 and Eurojust. It also supports and regularly participates in activities of ARIN-AP.

### **Examples of implementation**

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 met 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.

Article 18. Functions and mandate of the Anti-Corruption Agency

18.4.17. Cooperate with respective foreign and international organizations, and exchange information related to combating corruption;

### ***(b) Observations on the implementation of the article***

The authorities explained during the country visit that IAAC and other competent authorities such as the General Intelligence Agency, the National Police Agency, the General Prosecutor’s Office, the FIU, the Financial Regulatory Commission and the Central Bank of Mongolia can exchange

information internationally without prior request, and do so in practice. IAAC is a member of the Global Operational Network of Anti-Corruption Law Enforcement Authorities (GlobE Network) and can exchange information internationally without prior request. The FIU has signed 21 memorandums of understanding with its foreign counterparts in relation to cooperation, including the spontaneous exchange of information. The authorities also spontaneously exchange information through the Egmont Group and INTERPOL.

## Article 57. Return and disposal of assets

### *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.*

### *(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has partially implemented the provision under review and provided the following information:**

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 State Prosecutor General of State. 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. Preservation of confiscated income and assets and evidence

1. Judge, prosecutor, investigator, competent officials shall be responsible for preservation and protection of confiscated assets, income and evidence.
2. Confiscated assets, income, and physical documents shall be stored in a special place until the court decision becomes effective, or until the decision to annul the decision to initiate a criminal case, file a complaint or appeal against the decision to dismiss the criminal case, and the records of preservation shall be attached to the files of 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 preservation 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 preservation, 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 preservation 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. Preservation 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 preservation, 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 preservation;
  - 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.

### **Examples of implementation**

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 State.

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”.

### *(b) Observations on the implementation of the article*

The legislation of Mongolia does not address the issue of the return of assets.

The general principle under the country’s legislation is that confiscated assets should be used to compensate damage caused to others and to cover the cost of investigation. If the value of confiscated assets exceeds the cost of compensation for damage, it should be transferred to the State budget (art. 7.5 (3) of the Criminal Code).

**It is recommended that Mongolia expressly provide for a mechanism for the return and disposal of assets in accordance with the provisions of article 57, paragraphs 1 and 3, of the Convention.**

### *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.*

### *(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**



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.



*(b) Observations on the implementation of the article*

In addition to establishing grounds for third persons to participate as civil plaintiffs in criminal proceedings, the Criminal Code includes a provision to preserve the rights of *bona fide* third parties in cases of confiscation that could extend to confiscation pursuant to a foreign request (art. 7.5 (5)), as it has been confirmed by the authorities during the country visit.

*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;*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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 Rendering Mutual Legal Assistance on Criminal Matters and Method for Extradition of Convicted Persons and Perpetrators by the Decree A/65 of the Prosecutor General of State<sup>55</sup> in May 2021 stated that:

1. In executing MLA Requests on Freezing, Seizure and/or Return of Illegal Assets, Income and/or Items submitted by a foreign jurisdiction, the provision provided by Section 3.1 of Article 3 of this Guidance shall be followed.
2. A prosecutor of Foreign Relations and MLA Requests Division shall receive the request, and shall review the following:
  - 2.1. whether the beneficial ownership is identified;
  - 2.2. whether the interest of a third party is affected by freezing and confiscation proceedings;
  - 2.3. whether special condition for preservation, transportation and/or protection is required.
3. In case of disagreement by a third party in connection to seized or confiscated assets, income and items, Foreign Relations and MLA Requests Division shall notify the requesting jurisdiction in written letter.

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<sup>55</sup> Both “Guidance on Rendering Mutual Legal Assistance on Criminal Matters and Method for Extradition of Convicted Persons and Perpetrators” and “Form for Mutual Legal Request on Criminal Matters and Extradition Requests for Perpetrators and Convicted Persons” were adopted respectively by 1<sup>st</sup> and 2<sup>nd</sup> appendices of the Decree No A/65 of 18<sup>th</sup> May 2021 issued by the Prosecutor General of the State.

4. A prosecutor and investigator who received the request, shall take measure to prevent from transaction, transfer and decomposition of illegal assets, income and/or items.

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 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 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.

## **Examples of implementation**

See answer above.

*(b) Observations on the implementation of the article*

The legislation of Mongolia does not address the issue of the return of assets.

The general principle under the country's legislation is that confiscated assets should be used to compensate damage caused to others and to cover the cost of investigation. If the value of confiscated assets exceeds the cost of compensation for damage, it should be transferred to the State budget (art. 7.5 (3) of the Criminal Code).

**It is recommended that Mongolia expressly provide for a mechanism for the return and disposal of assets in accordance with the provisions of article 57, paragraphs 1 and 3, of the Convention.**

*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;*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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.

*(b) Observations on the implementation of the article*

The legislation of Mongolia does not address the issue of the return of assets.

The general principle under the country's legislation is that confiscated assets should be used to compensate damage caused to others and to cover the cost of investigation. If the value of confiscated assets exceeds the cost of compensation for damage, it should be transferred to the State budget (art. 7.5 (3) of the Criminal Code).

**It is recommended that Mongolia expressly provide for a mechanism for the return and disposal of assets in accordance with the provisions of article 57, paragraphs 1 and 3, of the Convention.**

*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.*

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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 related 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 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.

### *(b) Observations on the implementation of the article*

The legislation of Mongolia does not address the issue of the return of assets.

The general principle under the country's legislation is that confiscated assets should be used to compensate damage caused to others and to cover the cost of investigation. If the value of confiscated assets exceeds the cost of compensation for damage, it should be transferred to the State budget (art. 7.5 (3) of the Criminal Code).

**It is recommended that Mongolia expressly provide for a mechanism for the return and disposal of assets in accordance with the provisions of article 57, paragraphs 1 and 3, of the Convention.**

### *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.*

### *(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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 of State 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.”

As specified, if the State member has not convicted (court order issued) then the receiving State party 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<sup>56</sup>:

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 preservation, 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.

### **Examples of implementation**

See answer above.

### *(b) Observations on the implementation of the article*

The legislation of Mongolia provides for the possibility to deduct the expenses incurred in investigations, prosecutions or judicial proceedings (art. 1.4 of the Criminal Procedure Code; art.

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<sup>56</sup> In addition, agreement established with foreign jurisdiction as well as principle of reciprocity can be used as a basis when covering such costs.



7.5 (3) of the Criminal Code).

*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.

*(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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 Prosecutor General of State, 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 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 State, 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.

*(b) Observations on the implementation of the article*

During the country visit, the authorities confirmed that Mongolia can, when necessary, conclude agreements or arrangements on a case-by-case basis for the final disposal of confiscated property, although it has not done so to date.



## Article 58. Financial intelligence unit

### *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.*

### *(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

The FIU was established in 2006 within the structure of the Central 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 164 countries. Also, FIU Mongolia has cooperation MOU with 21 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 FIU. The Cooperation Council consists of representatives of Ministries in charge of foreign relation, finance, justice, Prosecutor office, Central Bank of Mongolia, Financial regulatory commission, Law enforcement authorities, organizations responsible of combating terrorism financing, taxation and custom authorities and the FIU.

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, Central Bank of Mongolia, Financial regulatory commission, Law enforcement authorities, organizations responsible of combating terrorism financing, taxation and custom authorities and the FIU. The function of secretariat of the National Committee is performed by the FIU.

*(b) Observations on the implementation of the article*

The FIU is an autonomous and independent agency (art. 16 of the Law on Combating Money-Laundering and Terrorism Financing). The Unit receives suspicious transaction reports, cash transaction reports and customs declarations and has broad access to information sources in order to develop financial intelligence. The Unit seems to have adequate human, financial and technical resources to properly conduct its work. It uses the United Nations Office on Drugs and Crime goAML software application, which was due to be fully implemented by the end of July 2022.

During the country visit, the authorities explained that in 2020, the FIU was expanded to two divisions. It currently has 26 staff including: 12 financial analysts, 2 IT officers, 3 AML supervisors (covering Lawyers, Notary, public accountant, auditors, and also other reporting entities) and staff for international cooperation and supporting staff.

## Article 59. Bilateral and multilateral agreements and arrangements

### *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.*

### *(a) Summary of information relevant to reviewing the implementation of the article*

**Mongolia stated that it has implemented the provision under review and provided the following information:**

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 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 State 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.

*(b) Observations on the implementation of the article*

Mongolia has concluded numerous bilateral and multilateral international cooperation agreements in the areas of crime control and the tracing of criminals and proceeds of crime.

*(c) Successes and good practices*

Mongolia is a member of the Asset Recovery Inter-Agency Network for Asia and the Pacific (ARIN-AP) and participates regularly in its activities to promote international cooperation on asset recovery.