

*Article 13. Participation of society*

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 such restrictions as shall only be such as are provided for in law.

# **CIVIL SOCIETY REPORT**

on the implementation of

Chapter II (Prevention) & Chapter V (Asset Recovery) of the

# **UNITED NATIONS CONVENTION**

# **AGAINST CORRUPTION**

# **IN MONGOLIA**

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by Transparency International-Mongolia

## Acknowledgements

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The findings in this report are those of the authors but do not necessarily reflect the views of the UNCAC Coalition and the donors who have made this report possible.

Every effort has been made to verify the accuracy of the information contained in this report. All information was believed to be correct as of 1 June 2024.

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Transparency International Mongolia (TI-M) is a local chapter of the global movement – Transparency International. TI-M is dedicated to the fight against corruption and the promotion of good governance in Mongolia. Through the capacity building of public officials and citizens, raising awareness of the damaging effects of corruption and working with partners with government, businesses and civil society, we aim at developing and implementing effective measures to tackle corruption and protecting public resources.

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## Abbreviations

ADB	Asian Development Bank
AML/CTF	Anti-Money Laundering/ Counter Terrorism Financing
APEC	Network of Anti-Corruption Authorities and Law Enforcement Agencies
APG	Asia Pacific Group on Money Laundering
ARIN-AP	Asset Recovery Inter- Agency Network for Asia and the Pacific
Art	Article
BEPS	Base Erosion and Profit Shifting
CEO	Chief Executive Officer
CoSP	Conference of the States Parties
CSOs	Civil Society Organizations
CPI	Corruption Perception Index
CTRs	Cash Transaction Reports
DP	Democratic Party
EFF	Extended Fund Facility
EITI	Extractive Industry Transparency Initiatives
FATF	Financial Action Task Force
FIU	Financial Intelligence Unit
FOREX	Foreign Exchange
FRC	Financial Regulatory Committee
FSTRs	Foreign Settlement Transaction Reports
GPA	General Prosecutor's Agency
GDIA	Judicial Decision Enforcement Agency
GSRA	General State Registration Authority
HUN Party	Mongolian Labor Party
IAAC	Independent Agency against Corruption
IACA	International Anti-Corruption Academy
ID	Identification
IFRS	International Financial Reporting Standards
IRS	Internal Revenue Service
LAC	Law on Anti-Corruption
MER	Mutual Evaluation Report
MFA	Ministry of Foreign Affairs of Mongolia
MLA	Mutual Legal Assistance
MLAT	Mutual Legal Assistance Treaties
ML/TF	Money Laundering/ Terrorism Financing
MNT	Mongolian National Currency tugrug
MoJHA	Ministry of Justice and Home Affairs of Mongolia
MOU	Memorandum of Understanding
MPP	Mongolian People's Party or HUN Party
MPRP	Mongolian People's Revolutionary Party
NFBPs	Non-financial businesses and professions
NRA	National Risk Assessment
NGOs	Non-Governmental Organizations
NPA	National Police Agency

NPOs	Not-for-Profit Organizations
OECD/G20	Organization of Economic Cooperation and Development/ Global leading 20 countries
OSCE	Organization for Security and Cooperation in Europe
PEPs	Politically Exposed Persons
SOEs	State-Owned Enterprises
StAR Initiative	Stolen Asset Recovery Initiative
STRs	Suspicious Transaction Reports
SECA	Swedish Economic Crime Authority
UK	United Kingdom
UKFIU	United Kingdom Financial Intelligence Unit
UNCAC	United Nations Convention against Corruption
UNODC	United Nations Office on Drugs and Crime
USA	United States of America
US\$	United States dollar
VATRs	Virtual Asset Transaction Reports

## List of Persons Consulted

Name	Job title	Affiliation	Date of interview
Anonymous	Judge	Criminal Chamber, Supreme Court	17 February 2024
Anonymous	Former Head of Secretariat	General Judiciary Council	18 February 2024
Anonymous	Senior Officer on AML/CTF	Khanbank Ltd	24 February 2024
Anonymous	Judge	Songinokhairkhan district Criminal court	1 March 2024
Anonymous	Investigation unit	Independent Agency against Corruption (IAAC)	6 March 2024
B.Tuvshinbat	Head of Research and Inspection unit	IAAC	6 March 2024
Anonymous	Secretariat	IAAC, National Anti-Corruption Strategy Implementation	6 March 2024
B.Buyannemekh	Prosecutor	General Prosecutor's Agency	9 March 2024
B.Dulamsuren	Chief Inspection Department	Financial Regulatory Committee	10 March 2024
L.Ochgerel	Head of unit	Mongolbank, Inspection Department	11 March 2024
L.Nyamgerel	Acting State Secretary	Ministry of Justice and Home Affairs	18 March 2024
G.Davaakhuu	Director	Financial Information Unit, Policy Implementation and Cooperation Division, FIU, Mongolbank	3 April 2024
Anonymous	Head of Department	Mongolian Institute of Certified Public Accountants	13 April 2024
Anonymous	Compliance Department	Trade and Development Bank of Mongolia	22 April 2024
L.Bayarbat	Lawyer	Bar Association	25 April 2024

## I. Introduction

Mongolia signed the United Nations Convention against Corruption (UNCAC) on 29 April 2005 and ratified it on 27 October 2005<sup>1</sup> by Parliament. The UNCAC came into effect on 11 January 2006.

This parallel report reviews Mongolia's implementation of selected articles of Chapter II (Preventive measures) and Chapter V (Asset recovery) of the UNCAC. The report is intended as a contribution to the UNCAC implementation review process currently underway covering these chapters. Mongolia was selected by the UNCAC Implementation Review Group by a drawing of lots for review in the fourth year of the second cycle. A draft of this parallel report was provided to the government of Mongolia.

**1.1 Scope.** The UNCAC articles and topics that receive particular attention in this report are those covering preventive anti-corruption policies and practices (Article 5), preventive anti-corruption bodies (Article 6), public sector employment (Article 7.1), political financing (Article 7.3), codes of conduct, conflicts of interest and asset declarations (Articles 7, 8 and 12), reporting mechanisms and whistleblower protection (Articles 8.4 and 13.2), public procurement (Article 9.1), the management of public finances (Article 9.2), access to information and the participation of society (Articles 10 and 13.1), judiciary and prosecution service (Article 11), private sector transparency (Article 12), and measures to prevent money laundering (Article 14) under Chapter II. Under Chapter V, the UNCAC articles and topics that receive particular attention in this report are those covering anti-money laundering (Articles 52 and 58), measures for direct recovery of property (Articles 53 and 56), confiscation tools (Article 54), international cooperation for the purpose of confiscation (Articles 51, 54, 55, 56 and 59) and the return and disposal of confiscated property (Article 57).

**1.2 Structure.** The report begins with an executive summary, including the condensed findings, conclusions and recommendations about the review process, the availability of information, as well as the implementation and enforcement of selected UNCAC articles. The following part covers the findings of the review process in Mongolia as well as access to information issues in more detail. Subsequently, the implementation of the Convention is reviewed and examples of good practices and deficiencies are provided. Then, recent developments are discussed and lastly, recommendations for priority actions to improve the implementation of the UNCAC are given.

**1.3 Methodology.** The report was prepared by Transparency International Mongolia with technical and financial support from the UNCAC Coalition and Asia Foundation in Mongolia. The group made efforts to obtain information for the report from government offices and to engage in dialogue with government officials. As part of this dialogue, a draft of the report was made available to them.

The report was prepared using guidelines and a report template designed by the UNCAC Coalition and Transparency International for use by civil society organizations

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<sup>1</sup> The United Nations Office on Drugs and Crime 2023, Signature and Ratification Status, <https://www.unodc.org/unodc/en/corruption/ratification-status.html>, accessed on 18th March 2024.

(CSOs). These tools reflected but simplified the United Nations Office on Drugs and Crime (UNODC)'s checklist and called for relatively short assessments as compared to the detailed official self-assessment checklist. The report template included a set of questions about the review process and, in the section on implementation, asked for examples of good practice and areas in need of improvement in articles of UNCAC Chapter II on prevention and Chapter V on asset recovery.

In preparing this report, the authors took into account the recent review of Mongolia carried out 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.<sup>2</sup>

In addition, international organizations statements, recommendations, standards and researches including the FATF Recommendations,<sup>3</sup> FATF Methodology on Risk Assessment<sup>4</sup>, World Bank's Methodology on Risk Assessment,<sup>5</sup> APG Mutual Evaluation Report,<sup>6</sup> Transparency International's surveys, assessment of the Independent Agency against Corruption, and standards on good governance were reviewed, all of which were accessible online.

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<sup>2</sup> United Nations Office on Drug and Crime 2023, Country Review Report of Mongolia, [https://iaac.mn/uploads/users/1279/files/2023\\_10\\_26\\_Mongolia\\_Cycle\\_II\\_Country\\_Report\\_EN.pdf](https://iaac.mn/uploads/users/1279/files/2023_10_26_Mongolia_Cycle_II_Country_Report_EN.pdf), accessed on 20<sup>th</sup> March 2024.

<sup>3</sup> FATF, <https://www.fatf-gafi.org/en/topics/fatf-recommendations.html>, accessed on 20<sup>th</sup> May 2024.

<sup>4</sup> FATF, Methodology for Assessing Compliance with the FATF Recommendations and the Effectiveness of AML/CTF Systems 2023, <https://www.fatf-gafi.org/en/publications/Mutualevaluations/Fatf-methodology.html>, accessed on 20<sup>th</sup> May 2024.

<sup>5</sup> World Bank 2013, The World Bank Risk Assessment Methodology, [https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/Risk\\_Assessment\\_World\\_Bank.pdf](https://www.fatf-gafi.org/content/dam/fatf-gafi/reports/Risk_Assessment_World_Bank.pdf), accessed on 20<sup>th</sup> March 2024.

<sup>6</sup> FATF, Mutual Evaluation of Mongolia, <https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mutualevaluationofmongolia.html>, accessed on 20<sup>th</sup> March 2024.



## II. Executive Summary

Mongolia's country review of the implementation of Mongolia of articles 5-14 and 51-59 of the United Nations Convention against Corruption for the review cycle 2016-2021 by Singapore and Burkina Faso was undertaken in 2022.

Transparency International Mongolia (TI-M) developed this parallel report. The report assesses the legislative, implementation, and justice system framework overall of UNCAC articles and topics that receive particular attention in the Country Review report are those covering preventive anti-corruption policies and practices (Article 5), preventive anti-corruption bodies (Article 6), public sector employment (Article 7.1), political financing (Article 7.3), codes of conduct, conflicts of interest and asset declarations (Articles 7, 8 and 12), reporting mechanisms and whistleblower protection (Articles 8.4 and 13.2), public procurement (Article 9.1), the management of public finances (Article 9), access to information and the participation of society (Articles 10 and 13.1), judiciary and prosecution service (Article 11), private sector transparency (Article 12), and measures to prevent money laundering (Article 14) under Chapter II. Under Chapter V, the UNCAC articles and topics that receive particular attention in this report are those covering anti-money laundering (Articles 52 and 58), measures for direct recovery of property (Articles 53 and 56), confiscation tools (Article 54), international cooperation for the purpose of confiscation (Articles 51, 54, 55, 56 and 59) and the return and disposal of confiscated property (Article 57). The parallel report was developed based on comments of key stakeholders on good practices and deficiencies in both legislations and practice, including public officials, private sector, CSOs, lawyers, and academics.

Overall, Mongolia has adopted 880 laws and 2765 regulations.<sup>7</sup> All necessary laws are in place, as required by UNCAC and other international requirements, but are lacking in implementation, transparency, disclosure and accountability for non-disclosure or failure to comply. Since the democratic transition in 1990, Mongolia has adopted three national anti-corruption programs, in 2002<sup>8</sup>, 2016<sup>9</sup> and 2023<sup>10</sup>, respectively. Upon completion of the second National Anti-Corruption Strategy, a third-party assessment evaluated that 75 percent of all activities of the Strategy had been successfully implemented.<sup>11</sup> However, despite this positive evaluation of implementation, Mongolia's Corruption Perceptions Index (CPI) generated by Transparency International has not improved. Mongolia's CPI decreased by 6 points during the implementation period of the Anti-corruption Strategy (39 points in 2015 vs. 33 points out of 100 in 2024) and its ranking fell down by 49 places (72<sup>nd</sup> place out of

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<sup>7</sup> Unified Legal Information System, Legislation of Mongolia 2024, <https://legalinfo.mn/mn>, accessed on 20<sup>th</sup> March 2024.

<sup>8</sup> Unified Legal Information System, National Anti-Corruption Strategy 2002, [https://iaac.mn/posts?page=4&category\\_id=13813](https://iaac.mn/posts?page=4&category_id=13813), accessed on 26<sup>th</sup> April 2024.

<sup>9</sup> Unified Legal Information System, National Anti-Corruption Strategy 2016, <https://legalinfo.mn/mn/detail?lawId=207496&showType=1>, accessed on 26<sup>th</sup> April 2024.

<sup>10</sup> Unified Legal Information System, National Anti-Corruption Strategy 2023, <https://legalinfo.mn/mn/detail?lawId=16760139781851>, accessed on 26<sup>th</sup> April 2024.

<sup>11</sup> Parliament of Mongolia, First discussion of the National Anti-Corruption Strategy 2023-2030, <https://www.parliament.mn/nn/30569/>, accessed on 1<sup>st</sup> July 2024.

180 countries in 2015 vs 121<sup>st</sup> place in 2023).<sup>12</sup> Mongolia was listed among 10 countries<sup>13</sup> where public office corruption is rising.

Although Mongolia has adopted all necessary laws and regulations to curb corruption, in practice, a key duty of accountability for wrongdoers lacks implementation. Mongolia's long-term development plan is meticulously elaborated and, mid-term programs on some areas are in place with objectives to enhance transparency and effectiveness of the government ensuring the inclusiveness of people in decision-making processes to reduce corruption in public offices. Legislative implementation records show double standards and selective justice with regards to high-level politicians, public officials, and ordinary citizens. In the past, the government has attempted to suppress civic space, with records<sup>14</sup> showing that the number of people who have been unjustly interrogated for their voice and expressing their personal opinions has increased, and overall human rights violations by certain law enforcement agencies has also increased. Unfortunately, this phenomenon is not only happening in Mongolia, but affects the whole democratic system of establishment globally,<sup>15</sup> plummeting efforts to fight injustice, including corruption.

Mongolia, as a democratic country, has wide possibilities and a well-founded atmosphere to improve the implementation of UNCAC in the near future. The National Anti-Corruption Strategy for 2023-2030 is a medium-term national program defining many objectives that aims at creating basic conditions for implementing Mongolia's long-term development policy "Vision-2050",<sup>16</sup> reducing corruption and malfeasance crimes by strengthening the national justice system, strengthening the legal framework to prevent corruption and conflicts of interest, and ensuring integrity at all levels of society (public service, private sector, SOEs, NGOs, media etc.). A total of 11 goals, 45 objectives, and 201 activities are planned to be implemented in two phases (phase I- up to 2026; phase II: 2026-2030). The Strategy's Action Plan is being reviewed by the line ministries for the submission to the Parliament<sup>17</sup> for its approval of the budget. The implementation of this Strategy is important as it is developed ensuring coherence of legislations and the AML National Program<sup>18</sup> adopted by the Government in 2022.

## 2.1 Description of the Official Review Process

The authors of this parallel report reviewed applicable legislation and reports, and set up meetings with relevant stakeholders to clarify information on the review process.

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<sup>12</sup> Transparency International, Corruption Perception Index 2023, <https://www.transparency.org/en/cpi/2023/index/mng>, accessed on 16<sup>th</sup> March 2024.

<sup>13</sup> Transparency International, Corruption Perception Index, Press Release 2022, [Transparency International's 2022 report](#), accessed on 16<sup>th</sup> March 2024.

<sup>14</sup> UNICEF 2020, UN expert calls on Mongolia to adopt law protecting human rights defenders, <https://www.unicef.org/mongolia/press-releases/un-expert-calls-mongolia-adopt-law-protecting-human-rights-defenders>, accessed on 20<sup>th</sup> May 2024.

<sup>15</sup> V-Dem Institute, Democracy Report 2024, [https://v-dem.net/documents/43/v-dem\\_dr2024\\_lowres.pdf](https://v-dem.net/documents/43/v-dem_dr2024_lowres.pdf), accessed on 24 July 2024.

<sup>16</sup> Unified Legal Information System, Mongolia's Long-Term Development Policy "Vison 2050", <https://legalinfo.mn/mn/detail/15406>, accessed on 20<sup>th</sup> March 2024.

<sup>17</sup> Parliament 2024, Recent development: The Parliament of Mongolia has adopted the Action Plan of the National Anticorruption Strategy on 16<sup>th</sup> May 2024. <https://d.parliament.mn/tusul/bc6d6a88-dbab-4cd0-ad0c-ccd85712a491>, accessed on 16<sup>th</sup> June 2024.

<sup>18</sup> Unified Legal Information System 2022, AML National Program 2022-2030, <https://legalinfo.mn/mn/detail?lawId=16531127071581&type=3>, accessed on 16<sup>th</sup> March 2024.

Eight civil society organizations, including Transparency International Mongolia, as well as several private sector stakeholders, participated in the UNCAC review country visit on 26 to 28 April 2022. The full and condensed country reports were published on 28 November 2023 on the Independent Agency against Corruption's website,<sup>19</sup> and have also been published on Mongolia's UNODC country profile page, together with the self-assessment checklist<sup>20</sup> following Mongolia signing the UNCAC Coalition's Transparency Pledge in November 2023.<sup>21</sup>

## 2.2 Availability of Information

The author of the report reviewed the government's open data such as statistics, websites on UNCAC implementation, and legislation to sufficiently assess the overall information concerning UNCAC implementation at the national level pursuant to the applicable laws that ensure public access to information and transparency. The review process obtained additional information and necessary clarifications during meetings and interviews with representatives of government bodies such as the Ministry of Justice and Home Affairs, the Independent Agency against Corruption, the Secretariat of the National Anti-Corruption Strategy Implementation, the Financial Intelligence Unit of the Central Bank of Mongolia, the General Prosecutor's Agency, the Economic Crime Combatting Department of the Criminal Police, and the Financial Regulatory Committee and civil society organizations, academia, media, lawyers and researchers specialized on anti-corruption issues. More details can be found in the section on Access to Information below.

## 2.3 Implementation in Law and in Practice

**Article 5 – Preventive anti-corruption policies and practices.** Mongolia has adopted required laws and regulations, but has significant deficiencies in the implementation and compliance with laws, transparency, disclosure, effective coordination of legislation, and accountability for non-compliance. Another area that Mongolia has significant deficiencies in is the identification of national risks, risk-rating and classification, assessment of the level of the severity of risks and identification of measures consistent with the level of risks. One example is an attempt of shrinking the civic space by proposing laws to the Parliament in the name of FATF recommendations, which caused conflict between the state and civil society organizations (CSOs).<sup>22</sup> The National Anticorruption Strategy was adopted in 2023 and the funding from the budget is adequate.

**Article 6 – Preventive anti-corruption body or bodies.** Operational autonomy of the Independent Agency against Corruption (IAAC) is sufficiently defined in the Law on

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<sup>19</sup> IAAC, <https://iaac.mn/post/146795>, accessed on 13<sup>th</sup> January 2024.

<sup>20</sup> UNODC, Mongolia's Self-assessment checklist, [https://www.unodc.org/documents/treaties/UNCAC/SA-Report/2023\\_11\\_21\\_Mongolia\\_SACL\\_2nd\\_cycle\\_dated\\_2019\\_08\\_12.pdf](https://www.unodc.org/documents/treaties/UNCAC/SA-Report/2023_11_21_Mongolia_SACL_2nd_cycle_dated_2019_08_12.pdf), accessed on 10 July 2024.

<sup>21</sup> UNCAC Coalition (2023), Mongolia signs the UNCAC Review Transparency Pledge, <https://uncaccoalition.org/mongolia-signs-the-uncac-review-transparency-pledge/>, accessed on 10 July 2024.

<sup>22</sup> Eagle.mn 4 May 2022, Draft laws on Unions and Associations may curb civil society organizations, <https://eagle.mn/r/101402>, accessed on 14<sup>th</sup> June 2024.

Anti-Corruption.<sup>23</sup> Although the appointment of the Chief and Deputy Chief Commissioners are made via open hearings of the Parliament, their selection processes are opaque and removals and appointment of Chief Commissioners in the past<sup>24</sup> were spontaneous, in violation of the Law on Anti-Corruption. The IAAC lacks legal supports within the Criminal Code<sup>25</sup> to detect the illegal enrichment and justify the evidences at court, as well as technical capacity and adequacy in reviewing public officials' assets and income declarations to detect irregularities. The funding allocated from the budget for the IAAC for the prevention, detection and investigations is adequate.

**Article 7.1 – Public sector employment.** Public officials are hired and rotated within the civil service based on the Civil Service Law.<sup>26</sup> The law fosters digital examinations for entrance and a merit-based approach for promotion. Job descriptions of each position are general, thus require specific narratives to ensure effective compliance with laws and human rights' obligations. Training of officials is limited to a number of programs that lack compliance and human rights training.

**Article 7.3 – Political financing.** The transparency and disclosure requirements for political parties were insufficient. However, the new Law on Political Parties,<sup>27</sup> which became effective from January 1<sup>st</sup> of 2024, introduced new rules of disclosure of semi-annual and annual financial statements to all political parties, auditing of funds, and declaration of sources of funding and spending both during election and non-election periods. Political parties' activities shall be promoted by providing funds from the state if a party shall receive one or more percent of the total vote during the national election.<sup>28</sup> The new National Anti-Corruption Strategy has a detailed, step-by-step action plan to reduce political party corruption and to enhance transparency and accountability for candidates and members of national or local parliaments both during and after the elections. Accountability for non-disclosure or a violation of the new law is assumed by a reporting-responsible person, but not by the whole political party.

**Articles 7, 8 and 12 – Codes of Conduct, Conflicts of Interest and Asset Declarations.** There are strict ethical rules preventing candidates convicted of a criminal offense (by a valid court decision) from running in an election. Nevertheless, a candidate may have been punished for conflicts of interest any number of times during his/her tenure in public office without a prohibition to run for office. The Law on Ethics of Public Officials<sup>29</sup> was adopted on 4<sup>th</sup> May 2023, with no record of breaches of the law, nor on the implementation, assessment, or reviews by the Civil Service

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<sup>23</sup> Unified Legal Information System, Law on Anti-Corruption 2006, <https://legalinfo.mn/mn/detail?lawId=8928>, accessed on 6<sup>th</sup> March 2024.

<sup>24</sup> TI-M, Assessment of the IAAC 2020, <https://www.transparency.mn/post/монгол-улсын-авлигатай-тэмцэх-газарт-анх-удаа-хөндлөнгийн-үнэлгээ-хийлээ>, accessed on 27<sup>th</sup> February 2024.

<sup>25</sup> Unified Legal Information System, Criminal Code 2015, <https://legalinfo.mn/mn/detail?lawId=103112>, accessed on 16<sup>th</sup> June 2024.

<sup>26</sup> Unified Legal Information System, Civil Service Law 2017, <https://legalinfo.mn/mn/detail?lawId=13025>, accessed on 12<sup>th</sup> March 2024.

<sup>27</sup> Unified Legal Information System, Law on Political Parties 2023, <https://legalinfo.mn/mn/detail?lawId=16760239349461>, accessed on 16<sup>th</sup> May 2024.

<sup>28</sup> Recent development: the Parliament election 2024 shall be held on 28<sup>th</sup> of June 2024 nationwide.

<sup>29</sup> Unified Legal Information System, Law on Ethics of Public Officials 2023, <https://legalinfo.mn/mn/detail?lawId=16759635984401>, accessed on 16<sup>th</sup> May 2024.

Council nor by any government agency. Judges are regulated by the Law on Courts<sup>30</sup> and there is no code of ethics for judges based on the Bangalore Principles on Judicial Conduct.<sup>31</sup> Several major ethical breaches of judges are unresolved due to the unavailability of ethical regulations for judges.

#### **Articles 8.4 and 13.2 – Reporting Mechanisms and Whistleblower Protection.**

The Law on Human Rights Defenders<sup>32</sup> was adopted in 2021; however, the protection of whistleblowers, informants, or complaint lodgers is not ensured by this law. It also lacks implementation; there is no record of any protection of human rights defenders and there is no record of an assessment of the law. The protection mechanism and measures are not clear, the protecting body has not been identified, and the protection method is missing in the law. The Government is drafting a law to protect whistleblowers and plans to submit it to be discussed by the Parliament during the spring recess of 2024.

**Article 9.1 – Public procurement.** Mongolia revised the Law on Procurement<sup>33</sup> and related procedures in 2023, and developed an e-procurement system<sup>34</sup> for all public procurement to be conducted online. The maximum threshold amounts that the public office or a state-owned enterprise (SOE) can purchase, without tendering processes, directly or through the price comparison methods (purchase of consultancy services valued equal or less than US\$20,500<sup>35</sup>; products and goods equal or less than US\$8,800) is defined by the Government resolution.<sup>36</sup> The Procurement Law covers both government organizations and state-owned enterprises, even though the Law on State and Local Properties<sup>37</sup> says that only the shareholding of a SOE is defined as the ‘state property’. This creates problems such as political interest and involvement in SOEs’ procurement, unfair competition and monopoly, appointing senior-level SOEs’ officials who handle the procurement, heavy involvement of line ministries in day-to-day operations of SOEs, negligence in accountability due to appointees’ political affiliation and connections to politically exposed persons (PEPs).

**Article 9.2 – Management of public finances.** Management of public finance-related laws are in place and effective. Recently, the Parliament has made several positive attempts to engage the public in budget planning, e-consultations during budget

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<sup>30</sup> Unified Legal Information System, Law on Courts of Mongolia 2021, <https://legalinfo.mn/mn/detail?lawId=16106892006021>, accessed on 16<sup>th</sup> May 2024.

<sup>31</sup> UNODC, Bangalore Principles on Judicial Conduct 2018, <https://www.unodc.org/documents/ji/training/bangaloreprinciples.pdf>, accessed on 16<sup>th</sup> May 2024.

<sup>32</sup> Unified Legal Information System, Law on Human Rights Defenders 2021, <https://legalinfo.mn/mn/detail?lawId=16207226850601> accessed on 16<sup>th</sup> May 2024.

<sup>33</sup> Unified Legal Information System, Law on Procurement of Goods, Works and Services by State and Local Government Assets 2023, <https://legalinfo.mn/mn/detail?lawId=16760359992351>, accessed on 16<sup>th</sup> May 2024.

<sup>34</sup> Electronic system of state procurements, <https://www.tender.gov.mn/mn/index/>, accessed on 1<sup>st</sup> July 2024.

<sup>35</sup> Mongolbank, Mongolbank Official Rate as of 1<sup>st</sup> January 2024 <https://www.mongolbank.mn/en/currency-rate>, accessed on 8<sup>th</sup> June 2024.

<sup>36</sup> Unified Legal Information System, Government Resolution 02 of 2024, Maximum Budget Threshold to be Observed in Procurement, <https://legalinfo.mn/mn/detail?lawId=17047839105111>, accessed on 2<sup>nd</sup> February 2024.

<sup>37</sup> Unified Legal Information System, Law on State and Local Properties 1996, <https://legalinfo.mn/mn/detail?lawId=492>, accessed on 16 March 2024.

implementation, developing half-year budget reports and establishing the Budget Stability Council comprised of academics, CSOs, and professional unions. However, there has been backsliding in the openness, comprehensiveness and user-friendliness of budget documents in each stage. The public spending during the pandemic is completely obscured, which includes donation spending of domestic and foreign legal entities and citizens, foreign aid, concessional loans, and budget. There are more disturbing evidences of spending from the SOEs' funds, in addition to the state budget, without any control, oversight or report.

**Articles 10 and 13.1 – Access to information and the participation of society.**

Laws ensure the transparency of information as long as it is not classified as a 'state secret' or 'official sensitive'. Public hearings and discussions are mandatory prior to adopting laws and regulations, ensured in several laws. However, implementation is weak. The government attempted to suppress the public voice raised in concern over the lack of public engagement in government decision-making and legislative drafting processes by developing new laws without public engagement and discussions, with no research and analysis.

**Article 11 – Judiciary and prosecution services.** The Constitution of Mongolia<sup>38</sup> ensures judicial integrity and independence. Judges, prosecutors, police officers and central and local administrative officials are obliged to immediately report to the IAAC on any corruption-related information obtained while performing their official duties and, judges must submit asset and income declarations to the General Judiciary Council and prosecutors to the IAAC. Ethics standards are measured during entry exams for judges only by the candidates answering questions. There is no specific code of conduct or ethics assessment for judges. Prosecutors have Code of Ethics and Ethics Committee but there is no record of implementation.

**Article 12 – Private sector transparency.** The Corporate Governance Codex was revised in 2022 which is applicable to listed companies. 86 percent of listed companies failed to post their 2022 annual reports on their websites as defined by the laws and the Codex, with no penalties imposed by regulators. Since 2020, companies must file their beneficial ownership information to the General State Registration Authority (GSRA) every time there are changes. The database on beneficial owners is not open to public; however, the state has disclosed the legal owners' database to the public.

**Article 14 – Measures to prevent money-laundering.** Mongolia has a comprehensive domestic regulatory and supervisory regime for banks, and other bodies susceptible to money-laundering such as non-banking financial institutions (NBFIs) and non-financial businesses and professions; licensed insurers; investment funds; investment management companies; licensed securities market entities; savings and credit cooperatives; real estate agents; notaries; lawyers; accountants and other financial management counsellors' virtual asset service providers; and loan service providers including natural or legal persons that provide formal or informal services for the transmission of money or value. The AML/CTF Law<sup>39</sup> allows and ensures collaboration of all government bodies. This process of generalizing the level

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<sup>38</sup> Unified Legal Information System, Constitution of Mongolia, <https://legalinfo.mn/mn/detail?lawId=367>, accessed on 24<sup>th</sup> March 2024.

<sup>39</sup> Unified Legal Information System, AML/CTF Law 2013, <https://legalinfo.mn/mn/detail?lawId=9242>, accessed on 5<sup>th</sup> February 2024.

of risks within one sector and identically assessing and listing the FATF Recommendations' listed sectors in the National Risk Assessment entailed further undesired consequences in Mongolia, specifically in regulating major licensed sectors such as the extractive industry and procurement services, where corruption and conflict of interest are predominant and vulnerabilities of laundering money were left out without risk rating, supervision or regulations. Also, due to the lack of tailored risk assessment and identification of the levels of risk within the consideration of the national context of vulnerabilities, several attempts have been made to shrink the civic space by misusing the National Risk Assessment (NRA) in the name of FATF standards, outside the mutual evaluation cycle, to suppress the NGOs in Mongolia.

**Articles 52 and 58 – Anti-money laundering.** The FIU was established in 2006 within the structure of the Central Bank of Mongolia. Risk assessment methodologies are provided by the regulators regularly and, both on-site and off-site oversight is conducted according to the schedule, based on suspicion or spontaneously by regulators. Mongolia is largely compliant with FATF Recommendations. However, additional measures and regulations are needed in relation to the identification, inspection and investigation of an excessive number of bank accounts under one person, and money and asset mules (a person who holds or transfers illegally acquired assets on behalf of someone else) that are predominant in practice. Methodology on detecting and collaborating on money and asset mules has not been developed. Although Suspicious Transaction Reports (STRs) and Cash Transaction Reports (CTRs) involving money mules and asset mules are delivered to the FIU, further actions are unclear and, as reported, usually neglected by the police upon delivery of such reports from the FIU.

**Articles 53 and 56 – Measures for direct recovery of property.** Mongolia has a legal framework for the return and disposal of confiscated property. The Law on Judicial Decision Implementation<sup>40</sup> deals with forfeiture proceedings. A person or a legal entity that suffered a loss due to a crime may make a civil claim to court to be compensated. However, in determining the state claimant in a civil case, for the restitution of losses and damages caused to the government entities such as the public organization or the SOE, the legal framework is not clear. Mongolia has signed Mutual Legal Assistance Treaties (MLATs) with 23 countries,<sup>41</sup> which allows Mongolia to cooperate with other States Parties for the purpose of returning and disposal of confiscated properties. However, it needs to develop a law regulating relations of line ministries and law-enforcement agencies in asset recovery to and from Mongolia in relation to States Parties with no MLATs, involvement and communication processes with foreign agencies, identifying protectors as well as asset managers for both restituted and confiscated assets (relations related to extradition of a Mongolian citizens from abroad or vice versa is not regulated either). The expenses for the implementation of such activities should be defined within the state budget each year.

**Article 54 – Confiscation tools.** Courts of Mongolia can order the confiscation of property of foreign origin by the adjudication of an offence of money-laundering if the crime was punishable by a term of imprisonment of at least one year according to the

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<sup>40</sup> Unified Legal Information System, Law on Judicial Decision Implementation 2017, <https://legalinfo.mn/mn/detail?lawId=12701>, accessed on 2<sup>nd</sup> March 2024.

<sup>41</sup> Police Office, Mutual Legal Assistance Treaties, <https://police.gov.mn/as/law/12?page=1&size=20>, accessed on 16<sup>th</sup> June 2024.

foreign country's law. Currently, the country does not have a body in charge of handling all issues related to asset recovery.

**Articles 51, 54, 55, 56 and 59 – International cooperation for the purpose of confiscation.** 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. As per the laws of Mongolia, the seizure of assets can be made based on a foreign country's request. However, the confiscation may only take place based on a judicial order, which is delivered based on a validated prosecutor's request based on a foreign MLA request. There is no restriction for a Mongolian authority to provide MLA to foreign countries without MLATs signed with Mongolia.

**Article 57 – The return and disposal of confiscated property.** The Criminal Code says regardless of expiration of the statute of limitation, criminal proceeds shall be confiscated by the state.

**Table 1: Implementation and enforcement summary**

<b>UNCAC articles</b>	<b>Status of implementation in law</b>	<b>Status of implementation and enforcement in practice</b>
<b>Art. 5</b> – Preventive anti-corruption policies and practices	Largely implemented	Moderate
<b>Art. 6</b> – Preventive anti-corruption body or bodies	Largely implemented	Moderate
<b>Art. 7.1</b> – Public sector employment	Largely implemented	Moderate
<b>Art. 7.3</b> – Political financing	Largely implemented	Moderate
<b>Art. 7, 8 and 12</b> – Codes of conduct, conflicts of interest and asset declarations	Partially implemented	Poor
<b>Art. 8.4 and 13.2</b> – Reporting mechanism and whistleblower protection	Partially implemented	Poor
<b>Art. 9.1</b> – Public procurement	Partially implemented	Poor
<b>Art. 9.2</b> – Management of public finances	Largely implemented	Moderate
<b>Art. 10 and 13.1</b> – Access to information and the participation of society	Partially implemented	Poor
<b>Art. 11</b> – Judiciary and prosecution services	Partially implemented	Poor
<b>Art. 12</b> – Private sector transparency	Partially implemented	Poor
<b>Art. 14</b> – Measures to prevent money-laundering	Largely implemented	Moderate
<b>Art. 52 and 58</b> – Anti-money laundering	Largely implemented	Moderate



<b>Art. 53 and 56</b> – Measures for direct recovery of property	Largely implemented	Moderate
<b>Art. 54</b> – Confiscation tools	Fully implemented	Good
<b>Art. 51, 54, 55, 56 and 59</b> – International cooperation for the purpose of confiscation	Fully implemented	Good
<b>Art. 57</b> – The return and disposal of confiscated property	Fully implemented	Good

**Table 2: Performance of selected key institutions**

<b>Name of institution</b>	<b>Performance in relation to responsibilities covered by the report</b>	<b>Brief comment on performance</b>
Independent Agency Against Corruption	Good	The independent and third-party assessment has reviewed the applicable laws, financial adequacy, human resource capacity and capability, prevention, detection, reporting, oversight, public engagement, communication, and international cooperation ability of the IAAC and assessed it to be above average within the region.
State Procurement Agency	Poor	The agency has developed the centralized e-shopping online procurement infrastructure, and laws. However, it is so far unable to manage conflict of interest, heavily involved in the day-to-day business activities of SOEs. The conflict of interest of the agency itself is high as per tender participants.
Financial Intelligence Unit	Good	Laws applicable to FIU operations ensuring their rights and ability to inspect and coordinate with domestic and foreign law enforcement agencies is sufficient. Capability of human resource is adequate. Mongolia is compliant with international regimes on AML/CTF.
General Prosecutor's Agency	Poor	Discrete operations and information, lack of understanding and reporting on human rights. Over 57 percent <sup>42</sup> of cases submitted to courts from prosecutors are returned due to insufficiency of comprehensiveness or primary formalities of the case filing.
Police	Poor	Operations and information are discreet, decisions often breach human rights, officials lack understanding on human rights and

<sup>42</sup> B. Battseren, Supreme Court Judge, Criminal Chamber, at Parliament session held on 28 November 2023.

		exercise double standards when enforcing laws.
Financial Regulatory Committee	Moderate	On-sight and off-site inspections lack risk assessment and inspections are conducted based on questionnaires.
General Election Committee	Moderate	Off-election times' activities are invisible. Lack of training for public as well as for officials to raise awareness and promote public election participation.
Court	Moderate	The general perception of people about this organization is negative. According to surveys, <sup>43</sup> courts are the second most corrupt organization in Mongolia and people assume that majority of corruption-related cases are not fairly resolved or politicians are not prosecuted. There is a lack of collaboration with CSOs. <sup>44</sup>

## 2.4 Recommendations for Priority Actions

1. Implementation of the National Anti-Corruption Strategy should be prioritized by all stakeholders.
2. Revise the Criminal Code to:
  - refine definitions of corruption crimes and follow-up crimes in line with UNCAC and international standards;
  - define beneficial owners consistently across all sectors.
3. Revise the Law on Anti-Corruption to:
  - include expenditure reports in declarations and allow inspection and investigation of both income and expenditure of public officials;
  - avail possibilities for the IAAC to inspect and investigate tax payments for investigating properties and assets.
4. Revise the Law on Conflict of Interest to:
  - increase the cooling-off period for public officials;
  - define Politically Exposed Persons (PEPs) under an umbrella term to include all sectors by a coalesced term, regardless of sector of applicability;
  - ensure increased concern for PEPs as vulnerable to various corruption and conflict of interest risks beyond two years;
  - restore a clause restricting appointment of public officials with a conflict of interest;
  - restore a guarantee ensuring the budget of the IAAC shall not be less than that of the previous year;
5. Adopt the Ethics Code for judges in compliance with the Bangalore Principles of Judicial Conduct.
6. Improve technical assistance in identifying and developing National Risk Assessment.

<sup>43</sup> TI-Mongolia, Survey conducted in November and December 2021; IAAC Integrity Assessment 2022, <https://iaac.mn/uploads/users/1279/files/Shudarga%20baidliin%20unelgee-2022%20on.pdf>, accessed on 27<sup>th</sup> June 2024.

<sup>44</sup> IAAC, Court Integrity Index of Mongolia 2022, <https://iaac.mn/uploads/users/1279/files/Shudarga%20baidliin%20unelgee-2022%20on.pdf>, accessed on 24<sup>th</sup> May 2024.

7. Develop a consolidated list of Politically Exposed Persons available to commercial banks and non-banking financial institutions for the purpose of KYC, verifying customers and conducting enhanced due diligence.
8. Adopt new measures to identify, conduct inspection, investigation, and exchange of information on money mules, asset mules, and increase sanctions.
9. Adopt the Law on Protection of Whistleblowers and ensure adequate protection mechanisms that prevent retaliation.
10. Adopt the Law on Extractive Industry Transparency.
11. Adopt the Law on Asset Management.
12. Revise the Law on Public Information Transparency to list confidential information and delist open information.
13. Revise the Law on Transparency of Public Information,<sup>45</sup> the Law on State and Official Secrecy,<sup>46</sup> and the Law on Personal Information Protection<sup>47</sup> that restrict public access to information and ensure protection of rights to information for reporters, researchers and the public.
14. The Parliament must restrict passing laws without public discussions and prior studies, neglecting compliance with applicable laws.
15. The Parliament and the Government of Mongolia must stop passing restrictive laws that would significantly burden and limit legitimate activities of non-governmental organizations in Mongolia and ensure and protect the civic space by allowing consistent consultations, multi-stakeholder dialogue and public awareness campaigns while complying with international regional bodies' standards.

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<sup>45</sup> Unified Legal Information System, Law on Public Information Transparency 2021, adopted 17 December 2021 (entered into force from 1 May 2022)

<https://legalinfo.mn/mn/detail?lawId=16390263044601>, accessed on 22<sup>nd</sup> May 2024.

<sup>46</sup> Unified Legal Information System, Law on State and Official Secrecy 2016,  
<https://legalinfo.mn/mn/detail?lawId=12408>, accessed on 22<sup>nd</sup> May 2024.

<sup>47</sup> Unified Legal Information System, Law on Personal Information Protection 2021,  
<https://legalinfo.mn/mn/detail?lawId=16390288615991>, accessed on 22<sup>nd</sup> May 2024.

### III. Assessment of Review Process for Mongolia

The authors of this Parallel Report reviewed applicable legislation and reports, and set up meetings with relevant stakeholders to clarify information and processes identified during the review. This section is therefore a summary of the information provided by the stakeholders on the status of the UNCAC review process in Mongolia.

#### 3.1 Report on the Review Process

Before the meeting, the authors sent a list of questions and information requested for the interview via email. During the interviews, Transparency International Mongolia introduced the purpose of the interview and provided general information about the review process and offered a consent form to sign availing them to reveal their identities.

**Table 3: Transparency of the government and CSO participation in the UNCAC review process**

Did the government disclose information about the country focal point?	Yes	Mongolia’s UNCAC Focal Point is the Ministry of Justice and Home Affairs. The contact person’s name is available online on the UNODC website on Mongolia’s country profile. <sup>48</sup>
Was the review schedule published somewhere/ publicly known?	Yes	The country visit was scheduled and published online on UNODC website. <sup>49</sup>
Was civil society consulted in the preparation of the self-assessment checklist?	No	The government solely assessed the checklist.
Was the self-assessment checklist published online or provided to civil society?	No	There was no information provided about the self-assessment.
Did the government agree to a country visit?	Yes	The country visit took place from 26 to 28 <sup>th</sup> April 2022.
Was a country visit undertaken?	Yes	26 to 28 <sup>th</sup> April 2022.
Was civil society invited to provide input to the official reviewers?	Yes	<input checked="" type="checkbox"/> Anti-corruption and access to information CSOs: <input checked="" type="checkbox"/> CSOs working on other issues <input checked="" type="checkbox"/> Academia <input checked="" type="checkbox"/> Trade unions

<sup>48</sup> UNODC, Country Review Report of Mongolia, [https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2023\\_10\\_26\\_Mongolia\\_Cycle\\_II\\_Country\\_Report\\_EN.pdf](https://www.unodc.org/documents/treaties/UNCAC/CountryVisitFinalReports/2023_10_26_Mongolia_Cycle_II_Country_Report_EN.pdf), accessed on 17<sup>th</sup> June 2024.

<sup>49</sup> UNODC, Country Profile for Mongolia, <https://www.unodc.org/unodc/en/corruption/country-profile/countryprofile.html#?CountryProfileDetails=%2Funodc%2Fcorruption%2Fcountry-profile%2Fprofiles%2Fmng.html>, accessed on 17<sup>th</sup> June 2024.

		<ul style="list-style-type: none"> <li>- Open Society Forum,</li> <li>- Globe International,</li> <li>- Media Council,</li> <li>- TI-Mongolia,</li> <li>- Partnership for Transparency,</li> <li>- “Onch Shiidel” NGO,</li> <li>- Mongolian Criminologists’ Association,</li> <li>- All for Education Coalition.</li> </ul>
Was the private sector invited to provide input to the official reviewers?	Yes	<ul style="list-style-type: none"> <li>• Mongolian Employers’ Union,</li> <li>• Mongolian Business Council,</li> <li>• Tripartite Council on Extractive Industry Transparency Initiatives,</li> <li>• Mongolian Builders Association,</li> <li>• Mongolian Bankers Association,</li> <li>• Mongolian Food Industry Association</li> </ul>
Has the government committed to publishing the full country report?	Yes	The full and condensed country reports were published on 28 November 2023 at IAAC’s website, <sup>50</sup> and has also been published on Mongolia’s UNODC country profile page, together with the self-assessment checklist, <sup>51</sup> following Mongolia signing the UNCAC Coalition’s Transparency Pledge in November 2023. <sup>52</sup>

### 3.2 Access to Information

The Law on Public Information Transparency (2021)<sup>53</sup> and the Law on State and Official Information Confidentiality (2016)<sup>54</sup> facilitated the review process of authors of this report by ensuring public access to information and identifying classifications of confidential information that can be accessible by public. The author of the report reviewed the government’s open data such as statistics, websites on UNCAC implementation, applicable legislations and their revisions, accompanied researches, Mongolia Country Review Report for the Second Cycle 2016-2021, other government reports and assessments on implementation of UNCAC and anti-corruption policies such as the National Anti-Corruption Program 2016-2023 Implementation Review, National Anti-Corruption Strategy 2023-2030, National Anti-Money Laundering Strategy and Action Plan, annual reports of public offices, glass account, and civil society reports to commence the situational analysis. After that, official letters were

<sup>50</sup> IAAC, <https://iaac.mn/post/146795>, accessed on 13<sup>th</sup> January 2024.

<sup>51</sup> UNODC, Mongolia’s Self-assessment checklist, [https://www.unodc.org/documents/treaties/UNCAC/SA-Report/2023\\_11\\_21\\_Mongolia\\_SACL\\_2nd\\_cycle\\_dated\\_2019\\_08\\_12.pdf](https://www.unodc.org/documents/treaties/UNCAC/SA-Report/2023_11_21_Mongolia_SACL_2nd_cycle_dated_2019_08_12.pdf), accessed on 10 July 2024.

<sup>52</sup> UNCAC Coalition (2023), Mongolia signs the UNCAC Review Transparency Pledge, <https://uncaccoalition.org/mongolia-signs-the-uncac-review-transparency-pledge/>, accessed on 10 July 2024.

<sup>53</sup> Unified Legal Information System, Law on Public Information Transparency 2021, <https://legalinfo.mn/mn/detail?lawId=16390263044601>, accessed on 4<sup>th</sup> February 2024.

<sup>54</sup> Unified Legal Information System, Law on State and Official Information Confidentiality 2016, <https://legalinfo.mn/mn/detail?lawId=12408>, accessed on 4<sup>th</sup> February 2024.

sent to main government authorities involved in the implementation of every part of UNCAC in Mongolia. Face-to-face meetings with government officials and interviews with representatives of public offices, banking and finance sector, private sector, think tanks, researchers of civil society organizations, media, lawyers and analysts were intended to clarify key or missing information, updates, necessities for change and professional opinions.

The public offices required 30 calendar days to respond to queries with possible extension of this timeline for an additional 30 days. However, most of the public offices were cooperative and forthcoming towards sharing information in shorter period of time or via e-mail and other communication channels without reservations.

**Table 4: Government bodies that were interviewed and information requested**

No.	Government Body	Information Requested	Response (full/partial/ not at all)
1	Ministry of Justice and Home Affairs	Information about focal point, Review reports, implementation of laws and assessment of legislations pursuant to Law on Legislations.	Full
2	IAAC	Statistics, awareness raising and training information, human resource and financial allocation information.	Full
3	IAAC's National Anti-Corruption Strategy Implementation Secretariat	National Anti-Corruption Strategy goals and objectives specific to each article of UNCAC applicable to parallel report.	Full
4	Financial Intelligence Unit of the Central Bank of Mongolia	Information about the National Risk Assessment, on-site and off-site oversights, evidences on controls of the movement of cash and sanctions in case of false declaration or failure to declare, statistics about STRs' inspection and transfer to law enforcement agencies.	Partial
5	Financial Regulatory Committee	On-site and off-site oversights, risk assessment, corporate governance monitoring for reporting entities.	Partial
6	Economic Crime Combatting Department of Criminal Police	Received STRs statistics, investigation methodology of STRs, money-mules, hawala <sup>55</sup> scheme, cash couriers, fraud and embezzlement related statistics and information.	Not at all
7	General Prosecutor's Agency	Received corruption proposals, submitted case number to court, returned case number from primary court, other statistics.	Not at all

<sup>55</sup> Oxford Learners' Dictionary: 'Hawala' means an informal way of transferring money from one place to another without any actual physical movement of money.  
<https://www.oxfordlearnersdictionaries.com/definition/english/hawala>.

Except for the information in need of updating or professional opinion or clarification, essential data pertinent to UNCAC implementation was available online. Statistics of police and FIU investigations based on Suspicious Transaction Reports (STRs) are not available online. Details about corruption cases submitted from the prosecutors to courts and final statistics about number of prosecuted cases by court was not available online. The authors of this report faced some complications but no legal barriers in receiving information from relevant government bodies concerning UNCAC implementation at the national level.

## **IV. Assessment of Implementation of Chapter II and Chapter V Provisions**

This chapter analyzes the implementation of provisions of UNCAC Chapter II on preventive measures and Chapter V on asset recovery in Mongolia through the application of laws, regulations and practices and highlights both good practices and areas for improvement.

### **4.1 Chapter II**

#### **4.1.1 Art. 5 – Preventive Anti-Corruption Policies and Practices**

Mongolia has sufficient anti-corruption policies in place and has adopted necessary laws and a strategy with detailed action plans to fight corruption. The Parliament of Mongolia ratified the UNCAC in 2005, which became effective from 2006. Mongolia adopted its first Anti-Corruption Law in 1996<sup>56</sup> and adopted a new version in 2006<sup>57</sup> to align with the UNCAC and to improve the overall anti-corruption framework of the country. To ensure integrity, rule of law, transparency and accountability of public officials, several laws and regulations to support the anti-corruption measure were adopted, such as the Law on Regulation of Prevention from Public and Private Conflict of Interest (Conflict of Interest Law) in 2012 to prevent from civil service conflict of interest, the Civil Service Law in 2017 to ensure fair and transparent procedures on meritocratic selection, appointment and promotion as well as the rotation of civil servants, and the Law on Public Officials' Ethics in May 2023 to establish the key ethical standards of public officials. Mongolia established the Independent Agency against Corruption (IAAC) officially on 11<sup>th</sup> of January 2007 with the duties and mandate of ensuring the implementation of the Anti-Corruption Law, covering anti-corruption preventive, investigation and undercover measures.

The National Anti-Corruption Strategy<sup>58</sup> to be implemented from 2023 to 2030 shall be reviewed by the IAAC twice a year. Reports shall be submitted by the IAAC to the Parliament and the Standing Committee on Legislations of the Parliament annually. The Parliament is obliged to provide constructive recommendations on overall anti-corruption efforts of the IAAC and the Sub-Standing Committee on Special Control on undercover operations and investigations. However, while annual reports have been submitted each year since the establishment of the IAAC in 2006, no recommendations were issued by the Parliament or Standing Committees of the Parliament to the IAAC despite the fact that they have legal obligations to do so each year.

In 2002, Parliament adopted the first Anti-Corruption National Program effective up to 2010 and implemented in two Phases. There was a gap in adoption of the next National Anti-Corruption Program between 2010 to 2016. In 2013, at the initiative of the President of Mongolia, the IAAC developed the concept and initial draft of the

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<sup>56</sup> IAAC archive, Anti-Corruption Law 1996, <https://cdn.greensoft.mn/uploads/site/1152/files/d8faf0f3-92d8-470f-bb01-c1b0b25490be/ATG-report%20saitad%20tavih.pdf>, accessed on 12<sup>th</sup> July 2024.

<sup>57</sup> Unified Legal Information System, Law on Anti-Corruption 2006, <https://legalinfo.mn/mn/detail?lawId=8928>, accessed on 6<sup>th</sup> March 2024.

<sup>58</sup> Unified Legal Information System, The National Anti-Corruption Strategy 2023, <https://legalinfo.mn/mn/detail?lawId=16760139781851> accessed on 26<sup>th</sup> April 2024.



National Anti-Corruption Program for 2016-2023. The National Program was implemented based on the Action Plan adopted by the Government in 2017, in two Phases: 2016-2019 and 2020-2023. Upon completion of the second National Anti-Corruption Program, a third-party assessment evaluated that 75 percent of all activities of the National Program had been successfully implemented; however, Mongolia's Corruption Perceptions Index (CPI)<sup>59</sup> score had significantly deteriorated. The third National Anti-Corruption Program – National Anti-Corruption Strategy was developed by sub-working group established by the Chief Commissioner in April 2023. The sub-working group, comprised from IAAC team and civil society organizations' representatives such as Transparency International, Open Society Forum and Asia Foundation has re-drafted the National Anti-Corruption Strategy which was passed by Resolution No. 59 of the Parliament of Mongolia on June 30, 2023. It is worth noting that the necessary actions are defined in the National Anti-Corruption Strategy with a clear timeline and budget for each objective thus, implementation of the Strategy should be prioritized by all stakeholders.<sup>60</sup>

In general, the oversight on IAAC corruption prevention mechanism, investigation and undercover operations is clearly defined in the Anti-Corruption Law. The IAAC submits its report Implementation of Anti-Corruption Legislations and Overall Corruption Perception to the Parliament, briefing the National Security Council on registration of assets and income declaration of public officials, and submitting reports to the Standing Committee on Legislation of the Parliament annually, within the first quarter of the year. Currently, the oversight is non-existent on the IAAC's work, and this area is ticking boxes for different reports developed by the IAAC. Measures to improve corruption crimes' prevention and detection mechanisms lack technical and policy expertise, research and recommendations from the competent authorities to change and improve the current status quo. The Law on Legislations define the requirement<sup>61</sup> to review and assess the implementation of legislation every five years according to the Government's adopted Methodology<sup>62</sup> adopted by the Government Resolution 59 of 2016. The IAAC reviews the implementation of the National Anti-Corruption Program and Strategy twice a year and are obliged to present the results to the Parliament (Art.18).

The IAAC has full power and a duty to cooperate and exchange information with international and foreign countries' law enforcement agencies (Art.18.4.17, Anti-Corruption Law). The IAAC has an Action Plan developed annually to extend its foreign cooperation with similar agencies, organizing joint training and mutual visits, exchanging information, and sharing experiences. Projects and joint activities with the financial and technical assistance of the international donor organizations have been

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<sup>59</sup> Transparency International, Corruption Perception Index 2023, <https://www.transparency.org/en/cpi/2023/index/mng>, accessed on 16<sup>th</sup> March 2024.

<sup>60</sup> Recent development: The Parliament of Mongolia has adopted the Action Plan of the National Anticorruption Strategy on 16<sup>th</sup> May 2024. <https://d.parliament.mn/tusul/bc6d6a88-dbab-4cd0-ad0c-ccd85712a491>, accessed on 16<sup>th</sup> June 2024.

<sup>61</sup> Unified Legal Information System, Law on Legislations 2015, Article 51.3 "Unless stipulated otherwise in this law, the implementation impact assessment of the law shall be conducted every 5 years after its adoption and, if necessary, it can be conducted within shorter period. *This section was added pursuant to the law dated on 12 May 2017.* <https://legalinfo.mn/mn/detail?lawId=11119> accessed on 18<sup>th</sup> July 2024

<sup>62</sup> Unified Legal Information System, Methodology to Assess Legislations 2016, <https://legalinfo.mn/mn/detail?lawId=11993> accessed on 18<sup>th</sup> March 2024

successfully organized annually. In order to improve the engagement with foreign law enforcement agencies, the IAAC needs to focus on staff development and reduce the language barrier.

The organization has established a Public Council in 2007, comprised of 15 civil society representatives, which were appointed by the President of Mongolia. The Council's operational procedure was adopted<sup>63</sup> by the President of Mongolia in 2021, which states that the Council has a mandate to increase active participation of public on anti-corruption activities, actively engage with citizens, civil society organizations and media, conduct research to sustain the independence and integrity of the IAAC, develop recommendations on improvement of anti-corruption activities, review implementation of their recommendations, participate in anti-corruption campaign and awareness raising activities, and examine the international best practices on anti-corruption.

Amendments to the Criminal Code<sup>64</sup> on December 16, 2022 strengthened the sanctioning for corruption crimes based on recommendations of international and regional anti-corruption and anti-money laundering bodies, in consideration of high-risk predicate offences identified in the Second National Risk Assessment of ML/TF<sup>65</sup>: for those who commit such crimes, fines shall no longer be imposed, terms of imprisonment were increased and their right to hold public positions or to run in national elections shall be deprived for a lifetime. Other changes of the Criminal Code relate to the elimination of statutory limits for corruption crime investigation.

The term "Corruption" is defined as an abuse by public officials, his/her official power for private gain or an undue influence in favor to others, and any actions or inactions that enables such illegal preferences from an individual or a legal person under the Anti-Corruption Law.<sup>66</sup> Duties and accountability of public officials in relation to proper management of public affairs and public property is defined in several laws. The Criminal Code classifies crimes and defines their applicable sanctions. As anti-corruption laws are applicable to public officials only, it is difficult to justify by evidence the involvement of other corrupt people during investigation, oversight and adjudication.

Embezzlement of both public offices and private sector is not included in the "Corruption Crimes" (under the category of the Crimes against Ownership Rights) and is investigated by the police, not the IAAC. While this can be possible by countries

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<sup>63</sup> Unified Legal Information System, The President of Mongolia, Resolution 21 of 2021. <https://legalinfo.mn/mn/detail?lawId=16231176499421>, accessed on 14<sup>th</sup> May 2024.

<sup>64</sup> Unified Legal Information System, Criminal Code 2015, <https://legalinfo.mn/mn/detail?lawId=11634>, accessed on 14<sup>th</sup> May 2024.

<sup>65</sup> National Risk Assessment of ML/TF 2020, not available online (hard copy).

<sup>66</sup> Unified Legal Information System, Law on Anti-Corruption, Article 3.1.1. Managing or executive officials holding political, administrative or special office of state, key management of SOEs, chairperson, members and a general director of the National Council of the public radios and televisions, managing officials of non-governmental organizations performing particular state functions under laws, electoral candidates running for the President of Mongolia, State Great Khural (Parliament) or for all levels of Citizens Representatives Khurals (local Parliaments), chairmen and representatives of all levels of Citizens Representatives Khurals, officials stated in a list approved by the competent organization (i.e. Legislative Standing Committee of the Parliament) and competent officials and Supervisory Board members of the Future Heritage Fund Corporation.

depending on their legal and structural context of law enforcement agencies, Mongolia needs to clearly define all corruption crimes under the category of a corruption crime, covering all areas of UNCAC within its framework. Therefore, pursuant to the Law on Criminal Procedure,<sup>67</sup> the responsible investigation authority of these crimes is delegated to the police, but not the IAAC. Thus, even if embezzlement by public officials is detected during the investigation of other crimes, the IAAC has to transfer the particular case to the police for investigation. Only money-laundering crimes that have been revealed during a corruption case investigation can be investigated by the IAAC. Other money-laundering crimes are investigated by the police; however, the money-laundering detected or revealed during an investigation of the Intelligence Agency shall be further investigated by itself.

A Politically Exposed Person (PEP) can be considered as a PEP only for the duration of the public service. PEPs are ranked as a high-risk public official according to the National Risk Assessment (NRA) as well as the internal risk assessments of reporting entities defined in the AML/CTF Law (Art.4.1.) that require additional or enhanced due diligence. As PEPs may be involved in decision-making processes, undue influence from PEPs is considered high, therefore, corruption and conflict of interest are potentially high. Such high-risk PEPs are defined two differently: the AML/CTF Law Article 4.1 and the Conflict of Interest Law Article 20.2 have same definitions, whereas the 'explanation' of the Article 21.6. of the Criminal Code defines as an undue influence on a judge, prosecutor, attorney, investigator or citizens' representative (excluding Heads of Parliament-seated political party, Effective and former Directors of international organization, Effective and former Directors, Related party to Effective and former Directors of SOEs and Directors of international organization of SOEs. Moreover, it is unclear if such an explanation shall apply to other sections, articles and clauses of the Criminal Code. In addition, those who are listed in the List of Public Officials to File Asset and Income Declarations<sup>68</sup> adopted by the Standing Committee on Legislations of the Parliament are not considered as PEPs regardless of their ability to be influential in major political decisions, licensing and contract signing.

Not all crimes articulated in the UNCAC are considered as corruption crimes in Mongolia. Although this evaluation was supposedly revealed during the first Country Review of Mongolia<sup>69</sup> on UNCAC of Chapter III (Criminalization and law enforcement) and Chapter IV (International cooperation), the technical assessment on coverage was not done by the first review. Embezzlement, fraud, and abuse of and trading in the appointed position's influence crimes are not defined in domestic laws as corruption crimes. Abuse of and trading in the appointed position's influence crime has been omitted from the Criminal Code in 2017, and other crimes such as embezzlement and fraud are classified as economic crimes. Although a country may classify crimes as necessary considering the domestic practice, legal context and environment within domestic laws, sanctioning does not commensurate with crimes and therefore is not dissuasive for public officials. The recent revision in the Criminal Code abolished a

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<sup>67</sup> Unified Legal Information System, Law on Criminal Procedure 2017, <https://legalinfo.mn/mn/detail?lawId=12694>, accessed on 14<sup>th</sup> May 2024.

<sup>68</sup> IAAC, Assets and Income Declaration file by public officials and reviewed by the IAAC, <http://www.xacxom.iaac.mn/>, accessed on 17<sup>th</sup> June 2024.

<sup>69</sup> UNODC, Mongolia, <https://www.unodc.org/unodc/en/corruption/country-profile/countryprofile.html#?CountryProfileDetails=%2Funodc%2Fcorruption%2Fcountry-profile%2Fprofiles%2Fmng.html>, accessed on 2 July 2024.

legal possibility to resolve corruption cases in an expedited manner to gain public confidence, although not all corruption crimes are excluded in this. Managers of state or and local government-owned enterprises or factory managers, and authorized officials are included under abuse of power (Art.22.1, Criminal Code), PEPs and organized criminal groups under bribery (Art.22.4), and PEPs under illicit enrichment (Art.22.10) shall be allowed to resolve their cases in an expedited manner. This gives the possibility for corrupt officials to pay off the losses caused by corruption and pay penalties, rather than being subject to imprisonment.

In order to bolster punishments for corruption crimes, which are identified as a high-risk predicate offence in the Second National Risk Assessment of ML/TF, developed in 2020, the Criminal Code amendment in the Article 22 shall no longer impose fines for corruption, and terms of imprisonment were increased, as well as denial of the right to hold public positions shall be imposed for a lifetime. Other changes of the Criminal Code relate to elimination of statutory limits for corruption crime investigation. In practice, the Law on Legislations define the requirement (Art.53.1) to review and assess the implementation of laws every 5 years according to the law and the Government's adopted Methodology<sup>70</sup> by Resolution 59 of 2016. Although, the Anti-Corruption Law was amended and revised 23 times since its adoption, a proper evaluation of a complete law was not made to assess the effectiveness of corruption-related sanctioning and other activities, same as for other laws. Revisions to the Criminal Code lacks supporting studies and impact assessments for new provisions therefore practitioners face legal loopholes in the application of such changes.

Mongolia has many definitions of a beneficial owner in the AML/CTF Law, General Taxation Law,<sup>71</sup> Securities Market Law,<sup>72</sup> Land Law,<sup>73</sup> and Banking Law.<sup>74</sup> The reporting threshold by the beneficial owners also differs by laws and instruction, ranging from 5 to 33 percent of a legal entity's shareholding (Art.3.1.6, AML/CTF Law, Art.6.1.48 General Taxation Law; Art.3.1.17 Banking Law; Art.4.1.26 Securities Market Law). Beneficial ownership data is not available to public (See 4.1.11 Art. 12 – Private Sector Transparency).

A Standing Committee of the Parliament is not capable by applicable law (The Law on Parliament Procedure) to sign, adopt or make any decisions on behalf of the Parliament but, it may review and suggest/propose the Parliament an approval, a signatory or a final decision. The List of Public Officials to File Asset and Income Declarations<sup>75</sup> was adopted by the Standing Committee on Legislations of the

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<sup>70</sup> Unified Legal Information System, Methodology to Assess Legislations 2016, <https://legalinfo.mn/mn/detail?lawId=11993> accessed on 18<sup>th</sup> March 2024

<sup>71</sup> Unified Legal Information System, General Taxation Law 2019, <https://legalinfo.mn/mn/detail?lawId=14403>, accessed on 20<sup>th</sup> March 2024

<sup>72</sup> Unified Legal Information System, Securities Market Law 2013, <https://legalinfo.mn/mn/detail?lawId=9243>, accessed on 1<sup>st</sup> March 2024

<sup>73</sup> Unified Legal Information System, Land Law 2002, <https://legalinfo.mn/mn/detail?lawId=216>, accessed on 20<sup>th</sup> March 2024

<sup>74</sup> Unified Legal Information System, Banking Law 2010, <https://legalinfo.mn/mn/detail?lawId=108>, accessed on 26<sup>th</sup> March 2024

<sup>75</sup> Standing Committee on Legislations of the Parliament, List of Public Officials to File Asset and Income Declarations 2024, Resolution 05, Enclosure 10, [https://cdn.greensoft.mn/uploads/users/3172/files/10\\_MG\\_jagsaalt.pdf](https://cdn.greensoft.mn/uploads/users/3172/files/10_MG_jagsaalt.pdf), accessed on 25<sup>th</sup> February 2024.

Parliament is in violation of the Constitution of Mongolia and the Law on Parliament Procedure. This needs to be corrected considering a potential of a dispute that might arise.

### **Good practices**

- Mongolia adopted an Anti-Corruption Law in 1996 and a Law on Regulation of Prevention from Public and Private Conflict of Interest (Law on Conflict of Interest) in 2012;
- Since the democratic transition in 1989, Mongolia has adopted three National Anti-Corruption Strategies, with action plans to be implemented from 2002 to 2010; from 2016 to 2023 and from 2023 to 2030.
- The independent authority against corruption (IAAC) was establishment in 2006 with the mandate to ensure implementation of the Law on Anti-Corruption;
- Amendments to the Criminal Code on December 16, 2022 strengthened the sanctioning for corruption crimes; those who commit such crimes are deprived of the right to hold public positions or to run in national elections for a lifetime.
- The Law on Anti-Corruption guarantees collaboration with citizens and civil society organizations by the IAAC. The organization has established a Public Council, comprised of 15 civil society representatives, which were appointed by the President of Mongolia.
- According to the Anti-Corruption Law, a number of supervision and oversight mechanisms are defined in relation to promoting effective practices aimed at the prevention of corruption and improving the anti-corruption legislation and activities of the IAAC.
- To comply with laws, the IAAC aims to detect the legislative breaches and misinterpretation by public offices and has issued a Decree No. A/183 on “Rule for reviewing decree, decision, rules and procedures of State bodies” in 2017 and established a registration system for reviewing, registering and informing the public of decisions of state bodies and officials.
- The IAAC has a full power and a duty to cooperate and exchange information with international and foreign countries' relevant organizations as stipulated in the Anti-Corruption Law (Art.18.4.17).
- The IAAC reviews the implementation of the National Anti-Corruption Strategy twice a year and is obliged to present the results to the Parliament (Art.18).
- The IAAC submits its report Implementation of Anti-Corruption Legislations and Overall Corruption Perception to the Parliament, briefing to the National Security Council on registration of assets and income declaration of public officials and reports to the Standing Committee on Legislation of the Parliament annually, within the first quarter of the year.
- Amendments to the Criminal Code of Mongolia strengthened the sanctioning for corruption crimes; for those who commit such crimes, fines shall no longer be imposed, terms of imprisonment were increased and their right to hold public positions or to run in national elections shall be deprived for a lifetime. Other changes of the Criminal Code relate to the elimination of statutory limits for corruption crime investigation.

### **Deficiencies**

- The Public Council has not conducted any review in relation to its operations other than case registration, undercover, inspection and investigations in the past

8 years. The Parliament, Standing Committees and a Sub-Standing Committee on Special Control of the Parliament have not provided any recommendations to the IAAC on overall legal implementation, undercover operations and investigations, ethics and declarations.

- The IAAC staff lack language proficiency to effectively collaborate with the international bodies undertaking similar activities.
- As anti-corruption laws are only applicable to public officials, it is difficult to justify by evidence the involvement of other corrupt non-public-official people during investigation, oversight and adjudication.
- Pursuant to the Law on Criminal Procedure, embezzlement at public offices and in the private sector falls under the jurisdiction of the police, not the IAAC. Corruption crimes' sanctioning does not commensurate with crimes and therefore is not dissuasive for public officials.
- A Politically Exposed Person (PEP) can be considered as a PEP only for the duration of the public service, and some high-level public officials are not considered as PEPs.
- Reviews and outcome evaluations of effective legislations every 5 years according to the Law on Legislations<sup>76</sup> were neglected by authorities since its adoption, including the Law on Anti-Corruption, Conflict of Interest Law and criminal legislations.
- Beneficial ownership data is not publicly available.
- Despite its legal inability,<sup>77</sup> a Standing Committee on Legislations of the Parliament has adopted a Procedure and a List of Public Officials to File Asset and Income Declarations<sup>78</sup> in violation of the Constitution of Mongolia and the Law on Parliament Procedure.

#### **4.1.2 Art. 6 – Preventive Anti-Corruption Body or Bodies**

According to the currently effective Anti-Corruption Law adopted in 2006, the IAAC officially commenced its operations from the 11<sup>th</sup> of January 2007 as a special independent government body in charge of functions to ensure implementation of anti-corruption laws, justice, openness and transparency of government organizations, to eliminate bureaucracy, detect and investigate corruption crimes, implement systematic activities with regards to registration, safeguarding and review of income and asset declarations of those required by the Anti-Corruption Law while organizing corruption prevention, awareness raising activities nationwide with cooperation of government and non-government organizations, private sector, media and citizens. The IAAC is a central body in charge of anti-corruption across the country, located in the capital Ulaanbaatar, with no branches in the countryside. In exigent circumstances, it has a power to detain the suspect (Law on Criminal Proceeding, Art.31.5).

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<sup>76</sup> Unified Legal Information System, Law on Legislations 2015, Article 51.3 “Unless stipulated otherwise in this law, the implementation impact assessment of the law shall be conducted every 5 years after its adoption and, if necessary, it can be conducted within shorter period. *This section was added pursuant to the law dated on 12 May 2017, <https://legalinfo.mn/mn/detail?lawId=11119>, accessed on 20<sup>th</sup> March 2024*

<sup>77</sup> Unified Legal Information System, Law on Parliament Procedure 2020, <https://legalinfo.mn/mn/detail?lawId=15412>, accessed on 20<sup>th</sup> February 2024.

<sup>78</sup> Standing Committee on Legislations of the Parliament, List of Public Officials to File Asset and Income Declarations 2024, [https://cdn.greensoft.mn/uploads/users/3172/files/10\\_MG\\_jagsaalt.pdf](https://cdn.greensoft.mn/uploads/users/3172/files/10_MG_jagsaalt.pdf), accessed on 25<sup>th</sup> February 2024.

The Anti-Corruption Law clearly stipulates the operational autonomy of the agency and restrictions on interference or influence in activities of the IAAC from the outside. The IAAC may only be restructured or dissolved based on the recommendations of the National Security Council (Anti-Corruption Law, 15.3) by the Parliament. The Constitution of Mongolia clearly guarantees the implementation and compliance with the international treaties to which Mongolia is a party to, and states that international treaties shall supersede domestic laws and Mongolia is a party to the UNCAC since 2005 where the independent body in charge of anti-corruption was established.

Pursuant to the Anti-Corruption Law, the Chief Commissioner is nominated by the Prime Minister of Mongolia and appointed for 6-years term by the Parliament after the public hearing on appointment and be removed only based on a proven guilt and/or personal request for the termination and/or if, unable to work due to health issues as defined by laws. The Deputy Commissioner shall be nominated by the Chief Commissioner and appointed for 6-years term by the Parliament after the public hearing on appointment and be removed only based on a proven guilt and/or personal request for the termination and/or if, unable to work due to health issues as defined by the Laws. In the absence of the Chief Commissioner, the Deputy Commissioner shall assume all mandates to continue its operations without interruptions (Anti-Corruption Law, Article 23.2).

The Chief and Deputy Commissioners of the IAAC are immune from detention, incarceration, arrest, or search of home, office, vehicle without permission of the Parliament, and other officers of the IAAC without permission of the Chief Commissioner of the agency, unless apprehended in the process of committing a crime, or arrested at the crime scene. The law does not specify the selection and nomination procedure of the Chief and Deputy Commissioners to be impartial, therefore, selection of candidates for the Chief and Deputy Commissioners of the agency is not transparent.

Despite the strong legal safeguard with a fixed term of 6 years, no single Chief Commissioner has completed the term. The recent changes in the Anti-Corruption Law to nominate a Chief Commissioner by the Prime Minister of Mongolia may have a negative impact on the overall performance of the agency, as the IAAC is a body mandated to inspect and investigate the government and the government's spending of the budget, state and non-state funds managed by the high-ranking public officials. The Prime Minister is a person who heads the ruling political party, in majority of cases. Thus, nomination of a Chief Commissioner by the Prime Minister may jeopardize the performance of the agency that could potentially confront appointed politicians by the Prime Minister. The revision made to the Anti-Corruption Law in 2021 allowed the Chief Commissioner's re-appointment once more for the same term. The media and the public criticize the IAAC for performing selective justice in favor of the ruling party.<sup>79</sup> Though concrete evidence is lacking, this claim should be considered carefully with regards to the re-appointment of the Chief Commissioner, keeping in mind that such

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<sup>79</sup> Ikon 2024, Article "Cases of Respondents of the Development Bank-Related Crimes Shall not be Dismissed" 2024, <https://ikon.mn/n/33wo>; Shuud 2023, Article '155 Public Officials and Citizens are Investigated in Relation to the Coal Theft Cases' 2023, <https://www.shuud.mn/a/553500>, accessed on 10<sup>th</sup> May 2024.

action may not be favorable to form an impersonal system of investigation of corruption crimes.

**Table 5: IAAC Chief Commissioners' Appointment and Removal**

Appointed Chief Commissioner	Term Started	Terminated Before Term	Term Ended (by law)	Termination Description/ Track
B.Dangaasuren	Dec 2006	Dec 2007	Dec 2012	Deceased/ Sudden death with no suspect
O.Sangragchaa	Dec 2007	Nov 2011	Dec 2013	Convicted/ Acquitted after 6 years
N.Ganbold	Nov 2011	July 2016	Nov 2017	Resigned due to medical condition/ Joined police immediately after
Kh.Enkhjargal	July 2016	May 2019	July 2022	Removed/ Joined law-enforcement agency
Z.Dashdavaa	May 2019	effective	May 2025	

*Source: Authors of this report*

The Fifth Goal of the National Anti-Corruption Strategy on 'Ensuring the autonomy and independence of anti-corruption agencies and to reduce the risk of internal influence' has defined objectives specifically to ensure transparency, independence and integrity of the IAAC and to promote fair and just investigations with checks and balances.

The process of selection of staff of the IAAC is regulated pursuant to the Civil Service Law<sup>80</sup> which clearly defines the steps to follow in selection, appointment and rotation of staff. Accordingly, it selects its staff from the relevant government offices based on their merits, expertise and education. Pursuant to the revised the Civil Service Law (Art.27.1.2), the vacant positions of public office shall be filled by the officers working at the same public organization or from the other relevant public offices based on internal selection criteria, education, merits and expertise. If, the position is not filled pursuant to Article 27.1.2, then pursuant to Article 27.1.3, it shall be filled with the human resource who is in the government's public offices' human resource list. The open job advertisement shall only can be made if, the position cannot be filled pursuant to above clauses.

Although, the Anti-Corruption Law (Art.29.2) states that the budget of the IAAC shall be reflected separately in the government budget, and shall be sufficient to enable the Agency to operate independently, the total budget approval is at around 67.4%<sup>81</sup> of the requested budget and, the IAAC has to rely on international and domestic non-governmental organizations and donor agencies' funding. The approved annual budget of the IAAC is incremented every year, except in 2015 when a guarantee of the budget allocation to be not less than that of the previous year was abolished in November 2015 from the Anti-Corruption Law. Also, the IAAC's approved budget by the Parliament is not directly transferred to the IAAC's account. In order to receive the approved budget, it must submit a detailed outline of planned activities to the Ministry of Finance which then sends the funds upon review and confirmation. The budget is

<sup>80</sup> Civil Service Law 2017, <https://legalinfo.mn/mn/detail?lawId=13025>, accessed on 11<sup>th</sup> May 2024.

<sup>81</sup> Interview with the IAAC official, 6 March 2024

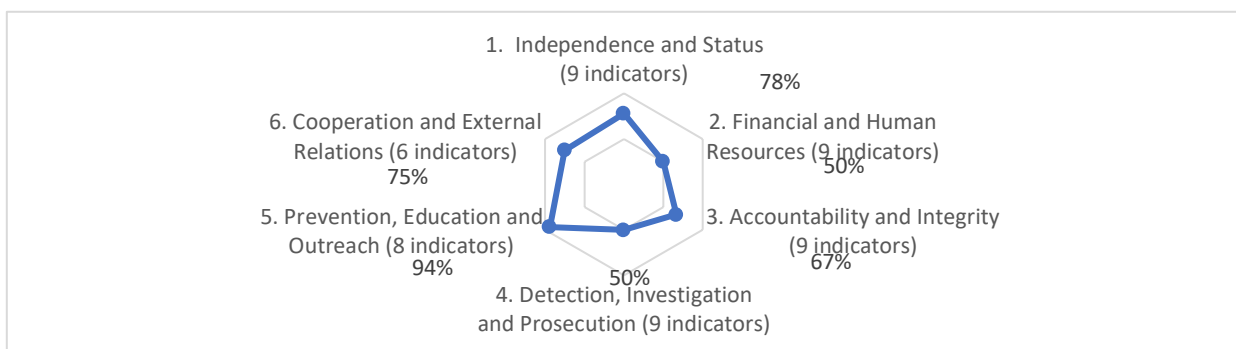


transferred in the first week of the month, therefore organizing activities at the beginning of the month is almost unfeasible unless the agency uses its residue from the previous month.

The Anti-Corruption Law guarantees collaboration with citizens and civil society organizations by the IAAC. The law strictly prohibits the Public Council to interfere in matters related to the IAAC’s case registration, investigation or undercover operations by the Anti-Corruption Law. Public announcements<sup>82</sup> by the Public Council since 2021 are inclined towards involvement in case investigations, meaning there is a requirement to revise the procedure of the Public Council.

The only external and an independent assessment of the IAAC was conducted in 2020 by Transparency International Mongolia.<sup>83</sup> The assessment reviewed the IAAC’s performance over five years, focusing on both internal and external environments in which they operate. The assessment was based on sets of 50 indicators of six dimensions: Independence and Status; Financial and Human Resources; Accountability and Integrity; Detection, Investigation and Prosecution; Prevention, Education and Outreach; and Cooperation and External Relations. The final results rated the IAAC’s performance at 68% out of 100%. The IAAC’s Internal performance was assessed at 73% and its Internal Enabling factors’ 77%. However, the External Enabling factors’ assessment was at 56%, which proved that the external influence (including political) is high and impacts on the organizational performance. These influencing factors brought down the total score of the agency assessment. Three consecutive surveys from various stakeholders<sup>84</sup> revealed that the public perception of the IAAC is “negative”.<sup>85</sup> It is considered that various attempts of spreading news through the media persist to manipulate the public perception and to use a media as a political tool, often to distract from other news or to damage the reputation of political opponents, as identified in TI-M’s Assessment of the IAAC in 2020.

**Diagram 1: Assessment of IAAC by Dimensions (2016-2020)**



<sup>82</sup> Public Council, Press Release 2023, <https://www.facebook.com/watch/?v=546206683965557>, <https://www.facebook.com/watch/?v=509005700896689>, accessed on 14<sup>th</sup> May 2024.

<sup>83</sup> Transparency International 2019, a project within the framework of the Anti-Corruption Agencies Strengthening Initiative to strengthen the independence and effectiveness of IAACs around the globe and encourage their respective governments to focus on necessary actions to tackle corruption and achieve the objectives defined in the Jakarta Principles. <https://www.transparency.org/en/projects/anti-corruption-agency-strengthening-initiative>, accessed on 11<sup>th</sup> May 2024.

<sup>84</sup> 1324 random surveyors, between the ages 22 to 64, TI-M 2019, Independent surveys.

<sup>85</sup> TI-M 2019, Independent surveys conducted in relation to identify the rating of indicator ‘Public Perception’ of the Assessment of the IAAC 2020.

### **Good practices**

- Five different types of guarantees to the IAAC are ensured by the Anti-Corruption Law, namely, a Political Guarantee, an Economic Guarantee, a Social Guarantee, a Legal Guarantee, and Other Guarantees to safeguard the institutional independence and legal and operational autonomy.
- The Anti-Corruption Law ensures the operational powers and autonomy of the agency and, it is restricted by the law to interfere or influence in activities of the IAAC from the outside.
- Parliament holds a public hearing on appointment of the Chief and the Deputy Chief Commissioners and are immune from detention, incarceration, arrest, or search of home, office, vehicle without permission of the Parliament, and other officers of the IAAC without permission of the Chief Commissioner of the agency, unless apprehended in the process of committing a crime, or arrested at the crime scene.
- The Fifth Goal of the National Anti-Corruption Strategy has defined objectives specifically to ensure transparency, independence and integrity of the IAAC and to promote fair and just investigation with checks and balances.
- The IAAC exercises a merit-based promotion and experience and education-based selection of its staff. The open job advertisement can only be made if the position cannot be filled from the pool of reserved people, who have given the public officials' examinations. There is sufficient training organized for the staff.<sup>86</sup>
- The Anti-Corruption Law guarantees collaboration with citizens and civil society organizations by the IAAC.
- The law strictly prohibits the Public Council of the IAAC to interfere in matters related to the IAAC's case registration, investigation or undercover operations by the Anti-Corruption Law. Public announcements<sup>87</sup> by the Public Council since 2021 are inclined towards involvement in case investigations.

### **Deficiencies**

- The law does not specify the selection and nomination procedure of the Chief and Deputy Commissioners to be impartial, therefore, selection of candidates for the Chief and Deputy Commissioners of the agency is not transparent.
- A nomination of a Chief Commissioner by the Prime Minister of Mongolia potentially has a negative impact on confrontation in inspection and investigation of the government officials managed by the high-ranking public officials, appointed by the Prime Minister.
- The IAAC has been criticized for performing selective justice in favor of the ruling party.
- Not the total budget that is requested is approved, the IAAC's approved budget is around 67.4% of the requested budget and the IAAC has to rely on international and domestic non-governmental organizations and donor agencies' funding.
- There is a lack of external review and inspection of the IAAC.

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<sup>86</sup> IAAC, Annual Report 2021, 2022, 2023, [https://iaac.mn/posts?category\\_id=13945b](https://iaac.mn/posts?category_id=13945b), accessed on 11<sup>th</sup> May 2024.

- The procedure of the Public Council has vague stipulations. Despite the Public Council's limitations on involvement in investigation and under-cover operations, the Public Council has an interest to be more involved in investigations rather than anti-corruption awareness-raising. The procedure should be revised.
- Regardless of a strong legal safeguard with a fixed term, no single leader of the IACC has completed their term due to various reasons (see Table 5 above).
- The Law does not specify the selection and nomination procedure to be impartial, therefore the selection of candidates for the Head and Deputy Commissioner of the agency is not transparent.
- The nomination of a Chief Commissioner of the IAAC by the Prime Minister may create a political influence and negatively affect the performance of the agency in confronting politicians appointed by the Prime Minister.

#### **4.1.3 Art. 7.1 – Public Sector Employment**

The Civil Service Law of Mongolia was adopted in December 2017 and became effective in January 2019.<sup>88</sup> The law establishes the legal basis for ensuring a professional, sustainable, transparent and responsible civil service, regulates relations concerning the civil service central authority and defines the legal status of civil servants and their social security entitlements. The Civil Service Law ensures clear, transparent, and merit-based selection, appointment and promotion rules with two different types of annual public service examinations conducted online. Public service examination interested persons are allowed to supervise the examination process via cameras installed in the exam rooms.

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 and mandated to train all public officials nationwide.<sup>89</sup> There are four categories in civil service (Civil Service Law 10.1): state political service; state administrative service; state special service; and state service appointee.

State administrative service and state special service are regarded as the core civil service. The selection of public service appointees is based on two types of examinations. The general examination is conducted at least once a year, and any person wishing to serve in the public sector can take it.<sup>90</sup> All exams are conducted online and evaluation is conducted by Artificial Intelligence. Interested persons are allowed to supervise the examination process via cameras installed in the exam rooms. Persons who pass the general exam are included in the reserve.<sup>91</sup> According

<sup>88</sup> Unified Legal Information System, Civil Service Law 2017, <https://legalinfo.mn/mn/detail?lawId=13025>, accessed on 11<sup>th</sup> May 2024.

<sup>89</sup> Relationships that are not regulated by the Civil Service Law are regulated pursuant to the Labor Law which was revised and adopted in 2021.

<sup>90</sup> Only Mongolian citizens who possess higher education shall be admitted for the exam for core service, except for the assistant's position within the core service.

<sup>91</sup> Civil Service Council 2019, Procedure on Civil Service Reserve List; the Registration Procedure of Civil Service Active Officials; the Registration of Civil Service Examination Passed People; the Registration of Effective Administrative Officials Applicable to the Level of High-Level Public Official or Equivalent Position; and List of Public Officials Resigned from Civil Permanent Service, <https://csc.gov.mn/content/63feb467ec90cf855cf0236>, accessed on 11<sup>th</sup> May 2024.

to this rule,<sup>92</sup> 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. The vacant position in any public organization, whether it is a higher or lower hierarchical post, is filled from the employees working in civil service and filled from the reserve list. 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.

The training program consists of four main topics, with two credit hours each: “Policy and Strategy,” “Administration and Management,” “Information Technology,” and “Ethics and Human Rights.” The number of training attendees is high each year, however, training on rule of law, compliance with applicable laws and regulations, sustainable development objectives, inclusiveness, and human rights is missing.<sup>93</sup>

According to the Law on Ethics of Public Officials,<sup>94</sup> adopted in May 2023, there are three types of Ethics Committees: Ethics Sub-Committee of each organization, under the main top-level appointee (Art.14.3.1) to resolve own employees’ cases; Ethics Sub-Committee under the Government to resolve cases of all governors, except the Governor of the Capital City and Governors of provinces; and Ethics Committee of high-level public officials other than those specified above. The Ethics Committee was effective since 2019 based on the Civil Administrative Service Ethics Code adopted by the Prime Minister of Mongolia<sup>95</sup> with no record or information on implementation no complaints and accountability.<sup>96</sup> It will be naïve to consider by the author that no complaint has been made in this regard. Violations of the Code of Conduct can be reported to the IAAC, which deals with violations relating to conflicts of interest and corruption.<sup>97</sup>

The second goal of the National Anti-Corruption Strategy for 2023-2030<sup>98</sup> is dedicated to a transparent and accountable civil service and promoting a trustworthy and corruption-free civil service.<sup>99</sup> It defines key objectives to enhance the current process of selection, appointment and promotion of public officials through transparent

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<sup>92</sup> Civil Service Council 2019, The Rule and Requirement for Civil Service Special Exam, <https://mcsud.gov.mn/resource/mcsud/File/2022/12/07/vgix2wexzffldqzi/ТӨРИЙН%20АЛБАНЫ%20ТУСГАЙ%20ШАЛГАЛТ%20ӨГӨХ%20БОЛЗОЛ%20ЖУРАМ.pdf>, accessed on 11<sup>th</sup> May 2024.

<sup>93</sup> Civil Service Council, Annual reports 2021, 2022, 2023, <https://csc.gov.mn/newsList/63cf9876717cd0045cad0ab4>, accessed on 11<sup>th</sup> May 2024.

<sup>94</sup> Unified Legal Information System, Law on Ethics of Public Officials 2023, <https://legalinfo.mn/mn/detail?lawId=16759635984401>, accessed on 16<sup>th</sup> May 2024.

<sup>95</sup> Unified Legal Information System, Civil Administrative Service Ethics Code, Government Resolution 33 of 2019. <https://legalinfo.mn/mn/detail?lawId=140445>, accessed on 11<sup>th</sup> May 2024.

<sup>96</sup> Civil Service Council of Mongolia 2023, Procedure on Accountability of Civil Core Service Officials and Complaint Mechanism, Resolution 36/32 of the Head of the Cabinet Secretariat of the Government of Mongolia and the Head of the Civil Service Council. [https://csc.gov.mn/uploads/TAZ\\_Togtool/ZGHEG-TAZ-36-32-Sahilqiin-shiitgel.pdf](https://csc.gov.mn/uploads/TAZ_Togtool/ZGHEG-TAZ-36-32-Sahilqiin-shiitgel.pdf), accessed on 11<sup>th</sup> May 2024.

<sup>97</sup> IAAC, Art. 2.10 of IAAC Decree A/60. <https://iaac.mn/shalgalt>, accessed on 11<sup>th</sup> May 2024.

<sup>98</sup> Unified Legal Information System, National Anti-Corruption Strategy for 2023-2030, <https://legalinfo.mn/mn/detail?lawId=16760139781851>, accessed on 17<sup>th</sup> May 2024.

<sup>99</sup> National Anti-Corruption Strategy 2023, Chapter Two. <https://legalinfo.mn/mn/detail?lawId=16760139781851>, accessed on 26<sup>th</sup> April 2024.

procedures, training public officials on international compliance and economic aspects that affect their work as well as the country's different metrics of measurements conducted by international development organizations on ethics, morality, human rights and rule of law, and ensuring the stability of public officials. It is common practice that after an election, public officials are removed from office or moved to another office. Salary and remunerations of public officials are to be increased without discrimination based on levels of employment, revised terms and conditions of duty, and increased accountability. Concerning public officials' asset and income declarations, the strategy aims to mainstream public monitoring both prior to and during appointment, while availing a system to monitor their expenditure which shall be interfaced with different systems such as tax reporting. It is a mid-term government policy document developed based on Mongolia's Long-Term Development Goals 'Vision 2050'<sup>100</sup>.

Although the IAAC reviews the public office nominee's preliminary conflict of interest declaration before appointment for the position, and informs the relevant authority about potential conflict of interest pursuant to the Article 23.6 of the Conflict of Interest Law, such nominee in question can be appointed regardless of a warning from the IAAC by the superior if the nominee declares that he/she shall comply with Art.8 of the Conflict of Interest Law (Art.8. Declaration and Explanation of Conflict of Interest). The clause restricting appointment a public official if the IAAC determines there to be a conflict of interest was abolished in 2017 from the Conflict of Interest Law.

The IAAC collected 47,554<sup>101</sup> asset and income declarations in 2023 and 50,258 declarations in 2024. Inspected declarations are at around 8-11% of total declarations based on a 1) planned schedule, 2) random selection and 3) based on citizens' complaint. This equals to around a maximum of 550 inspected declarations in a year which is insufficient to monitor the conflict of interest or corruption risks. The IAAC requires a more sophisticated approach on reviewing the declarations through AI programs that would identify some of the key risks automatically.

The Parliament revises the salary scale and minimum threshold for the IAAC, and the Government revises this for certain civil services from time-to-time considering the economic conditions, minimum wage, purchase parity of citizens as well as other factors of influence such as independence and mandate of services. The IAAC's officials' salary scale and minimum threshold was revised in November 2023 (Parliament Decree 92/2023). The salary scale and minimum threshold for civil service employees was revised in June 2023<sup>102</sup> by the Parliament.

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<sup>100</sup> Unified Legal Information System, Mongolia's Long-Term Development Goals 'Vision 2050', Parliament Decree 52 of 2020, <https://legalinfo.mn/mn/detail/15406>, accessed on 17<sup>th</sup> April 2024.

<sup>101</sup> IAAC, Annual report 2023, IAAC, <https://iaac.mn/post/151812>, accessed on 17<sup>th</sup> May 2024.

<sup>102</sup> Constitutional Court, the Supreme Court, General Prosecutor's Agency, Human Rights Commission, Civil Service Council, General Election Committee, National Statistical Committee, Disciplinary Committee of the Court, General Judiciary Council (Enclosure 1); Civil Administrative and Civil Special Service of Administrative Offices (Enclosure 4); Government Agencies, Local Administrative Offices and Other Administrative Positions (Enclosure 3); the Civil Special Force (Enclosure 4); the Science Organizations (Enclosure 5); Health Sector (Enclosure 6); Pre-School and Elementary and Middle School Civil Service (Enclosure 7); Professional Education (Enclosure 8); Culture, Art, Sports Sector Civil Service (Enclosure 9); Civil Service and Other Service Positions Supporting Civil Service (Enclosure 10); Certain Civil Political Positions (Enclosure 11) have been adopted by the Government (241/2023) and IT Experts (213/2023); Diplomatic Missions' Officials (431/2023).

## **Good practices**

- The Civil Service Council provides ethical guidance to officials and executives, overseeing the implementation of training of all public officials nationwide, addressing complaints about recruitment and selection procedures.
- The Civil Service Law ensures clear, transparent, and merit-based selection, appointment and promotion rules with two different types of annual public service examinations conducted online. Any Mongolian citizen wishing to serve in the public sector can take exams to work in the core public service. There are no unregistered public officials in the service.
- All exams are conducted online and the evaluation is conducted by Artificial Intelligence. Interested persons are allowed to supervise the civil servant examination process via cameras installed in the exam rooms.
- 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. The priority for the selection is filled from the reserve list.
- The Law on Ethics of Public Officials established three types of Ethics Committees: Ethics Sub-Committee of each organization; Ethics Sub-Committee under the Government to resolve case of all governors, except the Governor of the Capital City and Governors of provinces; and Ethics Committee of other high-level public officials.
- Violations of the Code of Conduct can be reported to the IAAC.
- Chapter Two of the National Anti-Corruption Strategy for 2023-2030 is dedicated to promoting a trustworthy and corruption-free civil service and shall eradicate discrimination based on levels of employment, increase accountability.
- Public officials listed by the Standing Committee on Legislations of the Parliament shall file a preliminary conflict of interest declarations upon nominations and asset and income declarations after the appointments to the IAAC for review and inspection.

## **Deficiencies**

- Statistics on the Ethics Committees' work, their meetings, cases and resolutions, types and context of complaints, etc. is neither available nor recorded.
- There is no training on the rule of law, compliance with applicable laws and regulations, sustainable development objectives, inclusiveness, and human rights.
- The clause restricting appointment a public official if the IAAC determines there to be a conflict of interest was abolished in 2017 from the Conflict of Interest Law.
- The IAAC only inspects 8-11% of all submitted asset and income declarations per year, which is insufficient to monitor the conflict of interest or corruption risks.

### **4.1.4 Art. 7.3 – Political Financing**

Mongolia has a democratic multi-party system, with 37 registered political parties at the Supreme Court as of March 2024.<sup>103</sup> The current Parliament has 76 members elected through the first-past-the-post system. The Mongolian People's Party (MPP or HUN Party), Democratic Party (DP) and Mongolian People's Revolutionary Party (MPRP) are represented in the Parliament from 2020-2024, with MPRP being the ruling party. Elections are held in Mongolia by direct universal suffrage, with presidential elections with a two-round electoral system, parliamentary elections and local elections every four years with a first-past-the-post system. However, this system was changed by the revisions made to the Constitution of Mongolia in November 2019, August 2022 and May 2023.<sup>104</sup>

From January 1<sup>st</sup> of 2024, the President shall only be elected for one term of six years by a first-past-the-post system. Amendments made in August 2022 removed the dual mandate clause in which four Cabinet members can be elected members of Parliament serving simultaneously, meaning there is an open prospect for any number of dual mandate Cabinet members. Amendments made in May 2023 increased the number of Parliament members to 126, with 78 members elected with a first-past-the-post system and the remaining 48 members elected through a proportional system. The latter two shall be effective from January 1<sup>st</sup> of 2024. Both parties and individual candidates may run in the Parliamentary and local elections.<sup>105</sup>

In November 2019, the Constitution of Mongolia made amendments to refine the political party assets, income source and financing to be transparent and asserted to determine the organization of a political party, procedures, financing and conditions to allocate financial supports from state pursuant to the law (Art.19, 3). Accordingly, in order to improve the law and legal framework for political parties and to make the financing of political parties transparent and open, the Law on Political Parties was revised by the President of Mongolia and adopted by the Parliament in July 2023 as the Law on Political Party. The purpose of the Law is to define a legal basis for establishing, registration, restructuring or dissolving a political party, regulations on political party structure, organizational activities, procedures of operation, monitoring and supervision, and financing and accountability of a political party. The revision to the Law was initiated by the President of Mongolia based on an objective to 'Initiate a law on political party financing to intensify political party reformation, enhance ethics and accountability of parties and make party financing open and transparent to public' defined in his 2021-2027 Action Plan.<sup>106</sup>

The new Law on Political Parties is applicable from January 1<sup>st</sup>, 2024.<sup>107</sup> Mongolia will hold a parliament election in June 2024 electing 126 members 78 members with a first-past-the-post system, and the remaining 48 members with a proportional system,

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<sup>103</sup> Supreme Court, List of registered political parties, <https://www.supremecourt.mn/mn/home?page=party&id=69&pr=63&tp=list>, accessed on 24<sup>th</sup> April 2024.

<sup>104</sup> Unified Legal Information System, Constitution of Mongolia, <https://legalinfo.mn/mn/detail?lawId=367>, accessed on 24<sup>th</sup> March 2024.

<sup>105</sup> Unified Legal Information System, Constitution of Mongolia, <https://legalinfo.mn/mn/detail?lawId=367>, accessed on 24<sup>th</sup> March 2024.

<sup>106</sup> President of Mongolia, 2021-2027 Action Plan, <https://www.gec.gov.mn/presidentCandidate/3157>, accessed on 24<sup>th</sup> April 2024.

<sup>107</sup> Unified Legal Information System, Law on Political Parties 2023, Article 45, <https://legalinfo.mn/mn/detail?lawId=16760239349461>, accessed on 24<sup>th</sup> April 2024.

availing election of other political parties.<sup>108</sup> The law includes some positive changes, explicitly defining the total amount threshold of funding to a political party in a year,<sup>109</sup> prohibitions of illegal financing,<sup>110</sup> reporting requirements and transparency rules (Art. 26, 34.6) during elections and off-times; and regarding political party financing, a definition of a maximum amount for membership fees,<sup>111</sup> donations and financing from an individual and a legal entity per year,<sup>112</sup> as well as state funding to a political party and a party's earning and income limits per year. The Law also requires the auditing of financial reports and reporting to the General Election Committee, the main authority in charge of elections. The state funding equals 0.7 percent of minimum labor wage multiplied by number of votes shall be provided to a political party once a year that received one or more percent vote in an election. That funding shall not exceed the total amount of the party's membership fees or total donations to a party in a year. Such funding will be allocated after the review of the financial and activity reports of a party. Political party expenses related to training on the promotion of political participation shall equal to not less than 20% of a state fund, awareness raising on human rights which shall equal to not less than 15% of a state fund, and expenses related to research, project implementation and promotion of internal democracy of a party shall equal to not less than 15% of a state fund. Gender quotas were ensured in the Law on Parliament Election<sup>113</sup> to be not less than 30 percent of any gender in 2024, and over 40 percent in the 2028 national elections.

The first goal of the new National Anti-Corruption Strategy for 2023-2030 adopted in May 2023 by the Parliament, is dedicated entirely to promoting transparency of the political party financing, accountability of parties and forming a favorable environment to decrease election expenditures, protecting election rights of citizens and ensuring fair and equal competition for candidates by creating election financing transparency procedures and improving non-biased election information to the public, and holding public election education with collaboration of NGOs.<sup>114</sup> As of 2024, public education

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<sup>108</sup> Constitutional Court of Mongolia, Roundtable discussions of academics 2019, [http://www.conscourt.gov.mn/?page\\_id=3260](http://www.conscourt.gov.mn/?page_id=3260); The Concept of the Constitution assessment report, B.Chimid, 2006, page 112-113.

<sup>109</sup> Unified Legal Information System, Law on Political Parties, Article 35.4 'A political party's total income in a year, including the income generated by spending its own resources, shall not exceed 50 percent of the funding received from the government in a previous year'. <https://legalinfo.mn/mn/detail?lawId=16760239349461>, accessed on 24<sup>th</sup> April 2024.

<sup>110</sup> Unified Legal Information System, Law on Political Parties, Article 33. Political Financing. Financing exceeding the threshold (below), financing from foreign or stateless individual and foreign legal entity shall be prohibited and non-market value services and supplies shall be considered as illegal.

<sup>111</sup> Unified Legal Information System, Law on Political Parties, Article 32.2 'A political party's monthly membership fee shall not exceed 5 percent of a monthly minimum labour wage'. The minimum labour wage equals to US\$193 a month, meaning a monthly party membership fee equals to or less than US\$9.6 a month. Mongolbank Official Rate as of 1<sup>st</sup> January 2024 <https://www.mongolbank.mn/en/currency-rate>, accessed on 16 March 2024.

<sup>112</sup> Mongolbank, Cash financing; financing over around US\$2,322 from an individual and US\$9,677 from a legal entity in a year; Mongolbank Official Rate as of 1<sup>st</sup> January 2024 <https://www.mongolbank.mn/en/currency-rate>, accessed on 8<sup>th</sup> June 2024.

<sup>113</sup> Unified Legal Information System, Law on Parliament Election 2019, <https://legalinfo.mn/mn/detail/14869>, accessed on 24<sup>th</sup> March 2024.

<sup>114</sup> Unified Legal Information System, National Anti-Corruption Strategy 2023, Chapter One, To improve the will, effort, leadership and transparency in the fight against corruption in the political sphere. <https://legalinfo.mn/mn/detail?lawId=16760139781851>, accessed on 26<sup>th</sup> April 2024.



on elections has increased to 56 percent of total election news, reports, and interviews in the media, compared to 9 percent from the 2020 Parliament election,<sup>115</sup> involving NGOs as a source, expertise or a developer of the content.

According to the new Law on Political Parties, all registered political parties shall audit their final annual financial report, prior to sending it to the central authority in charge of elections i.e. the General Election Committee by March 15<sup>th</sup> and the non-audited report by 10<sup>th</sup> of February of each year. In addition, a non-audited half-year financial report shall also be sent to the authority by 20<sup>th</sup> of July each year. The content of the financial report is defined within the law (Art.36) as to include income and expenditure and registration of related assets together with an applicable explanation.

The transparency and disclosure requirements for political parties are insufficient regardless of the requirement to post information online. The state funding shall be provided to a political party that received one or more percent vote of total election-eligible people in an election. According to the Budget Law (Sub-Clause 3.1.6), only those political parties receiving the state funding must report their financial information through the glass account.<sup>116</sup> However, political parties are not required to disclose contracts signed with the media. For non-disclosure of the financial reports, only a penalty shall be applicable to a political party and there is no criminal liability. If a political party has neglected to disclose financial information in a given year, state funding shall only be ‘suspended’ until corrections are made as a penalty. Although there is a possibility for public monitoring, there are no regulations defined in laws on how the complaints will be handled by the General Election Committee.

Around 30,000 domestic and 259 international election observers worked during the 2024 national Parliament election held on 28<sup>th</sup> of June 2024. Prior to the election, the General Election Committee provided 6 randomly selected cast voting machines and 10 voting sheets for the candidates, and 10 for political parties for test and training purposes. CSOs tested the sheets with different methods, including sending blank sheets and sheets with mistakes. Test and training included monitoring of the machine reading precision and timing, comprehensiveness of forms, and monitoring methods for observers. Election expenditures of candidates and all participating political parties were audited and disclosed to the public prior to the election on the National Audit Agency website<sup>117</sup> by each candidate and political party. There were no major violations during the 2024 national election, according to the NGO Open Society Forums’ report.<sup>118</sup>

### **Good practices**

- In November 2019, the Constitution of Mongolia made amendments to refine the political party assets, income source and financing to be transparent and open to the public.

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<sup>115</sup> Open Society Forum, Press Conference 2024, <https://forum.mn/post/157108>, accessed on 10<sup>th</sup> July 2024.

<sup>116</sup> All government offices and SOEs are required to post their financial statements and information defined in the Law on Glass Account 2014, <https://legalinfo.mn/mn/detail?lawId=10497>, accessed on 25<sup>th</sup> March 2024.

<sup>117</sup> National Audit Agency, 2024 Parliament election expenditure, <https://audit.mn/?p=25740>, accessed on 10<sup>th</sup> July 2024.

<sup>118</sup> Open Society Forum, Press Conference 2024, <https://forum.mn/post/157108>, accessed on 10<sup>th</sup> July 2024.

- The Law on Political Parties was revised and adopted by the Parliament in July 2023 with specific clauses to improve the legal framework for political parties and to make the financing of political parties transparent.
- Gender quotas were ensured in the Law on Parliament Election to be not less than 30 percent of any gender in the 2024, and over 40 percent in the 2028 national elections.
- The state funding equaling 0.7 percent of minimum labor wage multiplied by number of votes shall be provided to a political party once a year that received one or more percent vote in an election.
- Political party expenses for training on promotion of political, awareness raising on human rights, and expenses related to research, project implementation and promotion of internal democracy of a party are regulated by the State to ensure that they are adequately funded.
- All registered political parties shall audit their final annual financial report, prior to sending it to the General Election Committee by March 15<sup>th</sup> and the non-audited report by 10<sup>th</sup> of February of each year.
- The National Anti-Corruption Strategy for 2023-2030 defines objectives to prohibit all types of vote-buying methods during election and off-times; enhancing political parties' accountability, ethics and transparency; ensuring conflict of interest avoidance from certain conflict-circumventing stakeholders such as major concession, concessional loan or loan guarantee recipients and their related party, and prohibiting election financing from banks, media, communication, mining and fuel import companies; implementing money-laundering regimes and ensuring public awareness and public election education in collaboration with NGOs.

#### **Deficiencies**

- The transparency and disclosure requirements for political parties are insufficient regardless of the requirement to post information online. Non-state-funded political parties are not obligated to disclose their financial transaction information on a website.
- Political parties are not required to disclose contracts signed with the media.
- If a political party has neglected to disclose financial information in a given year, state funding shall only be 'suspended' until corrections are made as a penalty.
- Although there is a definition of the possibility for public monitoring of political financing, there are no regulations defined in laws on how the complaints will be handled by the General Election Committee.

#### **4.1.5 Art. 7, 8 and 12 – Codes of Conduct, Conflicts of Interest and Asset Declarations**

Mongolia has adopted ethics legislative measures applicable to candidates in presidential, national and local parliament elections. These elections are regulated pursuant to the Law on Presidential Elections,<sup>119</sup> the Law on Parliamentary Elections and the Law on the Election of Citizens' Representative Khurals.<sup>120</sup> Ethical criteria are

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<sup>119</sup> Unified Legal Information System, Law on Presidential Elections 2020, <https://legalinfo.mn/mn/detail?lawId=16106891958781>, accessed on 24<sup>th</sup> March 2024.

<sup>120</sup> Unified Legal Information System, Law on the Election of Citizens' Representative Khurals 2020, <https://legalinfo.mn/mn/detail?lawId=15125>, accessed on 20<sup>th</sup> March 2024.

prescribed to the candidates for the President of Mongolia, members of the Parliament and members of Citizens' Representatives' Khurals of provinces, capital city, districts and sums (divisions of provinces).

A person who has been convicted of a criminal offense by a valid court decision is prohibited from running for office. Candidates shall file preliminary declarations of personal interest, assets and income to the IAAC immediately after registration as an election candidate (Law on Parliament Election, 32.4) and non-filing the declaration shall constitute ineligibility to run for an election. The IAAC must send all received declarations of assets and income to the General Election Committee after the review and inspection the day a candidate is given an ID card for candidacy (Law on Parliament Election, 32.15). Asset and income declarations of all registered candidates running for the 2024 election is posted online on 10<sup>th</sup> June 2024.<sup>121</sup> Laws related to elections do not restrict or prohibit anyone running if a person was penalized or assumed a disciplinary action for conflict of interest while performing his/her public duty.

There are three main Parliament-seated political parties, namely, the Democratic Party, Labor Party (HUN) and the People's Republican Party. Parties have extensively revised their Charters since 2021. While the Democratic Party's Charter Supervisory Committee resolves to invalidate the party membership if a person was charged with a crime,<sup>122</sup> the People's Republican Party Charter<sup>123</sup> says a person who is investigated in a corruption crime shall submit a request to suspend his/her party membership within 30 days of becoming aware of such investigation, and the general Supervisory Committee shall decide to temporarily suspend or terminate the membership, which later can be restored if found not guilty. The party membership shall automatically be considered invalid if a member has been established by a court to have committed a corruption crime. HUN Party's charter has no clauses restricting membership for corruption or conflict of interest of its members.

Parliamentarians' ethics are regulated pursuant to the Code of Ethics of Parliament Members,<sup>124</sup> adopted in 2021 which defines key ethical standards in performing one's duty fairly and justly, including abstaining from corruption and conflicts of interest, disclosing and reporting personal interest and asset and income, managing public funds with dignity and complying with laws during campaigns. Ethical standards on receiving gifts and rewards and undertaking official visits are also defined thereto. Asset and income declarations need to be filed by all member of the Parliament. The Standing Committee on Ethics and Discipline of the Parliament shall inspect asset and income declarations of Parliament members based on complaints and request the IAAC in the event of any discrepancies or suspicions upturned in the due course (Anti-Corruption Law, 13.2). The Committee shall also inspect violations of ethical standards by members of the Parliament upon receipt of the complaint or information or based

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<sup>121</sup> General Election Commission of Mongolia, Asset and income declarations of 2024 Parliament election candidates, <https://gec.gov.mn/post/3281>, accessed on 16<sup>th</sup> June 2024.

<sup>122</sup> Democratic Party Charter, 3.5, <http://www.democraticparty.mn/page/21/>, accessed on 24<sup>th</sup> March 2024.

<sup>123</sup> Mongolian People's Republican Party Charter, 4.3; 6.5; 34.6; 34.7, <http://www.nam.mn/намын-дүрэм>, accessed on 24<sup>th</sup> March 2024.

<sup>124</sup> Unified Legal Information System, Code of Ethics of Parliament Members 2021, <https://legalinfo.mn/mn/detail?lawId=16390082211761>, accessed on 24<sup>th</sup> March 2024.

on reports of the Parliament Secretariat. There is no record of any work by the Standing Committee in the past 14 years, since the adoption of the Anti-Corruption Law in Mongolia.

A member of the Parliament may only earn an income by lecturing, giving presentations, or receiving commission for writing books which shall not exceed 40% of the annual salary earned as a service to the Parliament. Any additional income shall be reported in an asset and income declaration. Violation of any ethical standards by a member shall constitute a warning, a public apology, or a 20% of reduction of a monthly salary for 6 months. Omission of reporting is inspected by the Standing Committee; however, there is no record of an inspection of parliament members' declarations and omission of information. On the other hand, the IAAC regularly inspects asset and income declarations of other public officials and reported to public, taking accountability measures to wrongdoers.<sup>125</sup>

Ethics of public officials are regulated pursuant to the Law on Ethics of Public Officials. Public officials are prohibited from accepting gifts in the performance of their official duties (Art. 16, Conflicts of Interest 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 works approved by international conventions or a Government procedure, teaching, academic works or research and analysis, and other works that are not in conflict with the current job if a permission is obtained from the superior (Art. 20; Art.18.5).

In order to limit the influence on civil service appointment and nomination, the Civil Service Law states (Art.32.4) that if a political service appointee, an administrative or executive personnel of a political party or a coalition or any other individual meddles in the appointment process of a public official in any way, then a permanent public official or a nominee to a permanent civil service shall take note of such action and shall deliver relevant documents to the Civil Service Council within 30 days. Also, both the Law on Civil Service (Art.39) and the Ethics of Public Officials (Art.7.1.5) prohibit the permanent public officials to be a political party member or support any political actions and remain neutral while avoiding influence from political party, coalition, or movement.

There are three types of Ethics Committees established to resolve cases of high-level public officials as defined in the Law on Ethics of Public Officials.<sup>126</sup> Inquiries to the IAAC and Civil Service Council as well as the organizations' website provided no information on violations of ethics rule, complaints, resolution, and accountability.

The following declarations are made by public officials pursuant to laws:

- Public office Nominee's Preliminary Conflict of Interest Declaration is required before appointment;

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<sup>125</sup> IAAC, Annual report 2021, 2022, and 2023 IAAC <https://iaac.mn/post/151812> ; accessed on 8<sup>th</sup> March 2024. 46 penalties in 2020, 94 in 2021, 34 in 2022 and 34 penalties in 2023.

<sup>126</sup> Unified Legal Information System, Law on Ethics of Public Officials, Ethics Sub-Committee under the Government to resolve cases of all governors, except the Governor of the Capital City and Governors of provinces; and Ethics Committee of high-level public officials other than those specified above. <https://legalinfo.mn/mn/detail?lawId=16759635984401>, accessed on 16<sup>th</sup> May 2024.

- Personal Conflict of Interest and Asset and Income Declaration is given at the time of appointment, revised annually and upon major changes during the appointment;
- Conflict of Interest Declaration during service;
- Election Candidates' Asset and Income Declaration if a person decides to run for local or national election;
- Assurance Form is signed to confirm a submission of declarations and authenticity of information.

The IAAC received 41,381 asset and income declarations in 2020, 41,686 declarations in 2021, 44,829 declarations in 2022 and 47,554 in 2023, showing an increase from year to year.<sup>127</sup> It receives and inspects the personal interest and the asset and income declarations of all public officials except members of the Parliament, pursuant to the applicable laws on anti-corruption and conflict of interest. However, if a member of a Parliament is a member of the Cabinet of the Government, the IAAC shall receive and review their declaration. Each year 380-550 declarations are inspected by the IAAC based on 1) planned schedule, 2) random selection and 3) citizens' complaint. Certain positions are considered high-risk as per the below-described tool and require enhanced due diligence. Within the framework of corruption prevention activities and identifying corruption causes and triggers as defined in Article 6.2.12 of the Anti-Corruption Law, the IAAC has adopted 'A Corruption Risk Assessment Tool' in 2017 by Decree A/185 and training specialists on risk assessment with a complete curriculum developed with the assistance of international organizations. Annual reports of the IAAC, including about the inspection of asset and income declarations of public officials, results and measures taken, are submitted to the Parliament and, a briefing is submitted to the National Security Council pursuant to the Procedure on Reporting to the National Security Council, a summary report of assets and income declaration to the Standing Committee on Legislation and a report on undercover operations, registration of cases and investigations to the Sub-committee on Special Supervision, respectively.<sup>128</sup>

The maximum 2-year cooling-off period is applicable through the Conflict of Interest Law. However, it is common practice that a public official who passed a decision on behalf of the government receives a high-level position at the private sector company to which the government decision was made in favor of. In some cases, officials become a shareholder of, or receive an asset from such entity.<sup>129</sup> Public officials declare their asset and incomes only during their occupancy<sup>130</sup> of the post and are only prevented from assuming a position in the private sector company, to which he/she passed a favorable decision, for two years after completing their job in the

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<sup>127</sup> IAAC, Annual report 2021, 2022, and 2023, <https://iaac.mn/post/151812>; IAAC news <https://iaac.mn/post/152851>, accessed on 16<sup>th</sup> May 2024.

<sup>128</sup> IAAC, Annual report 2021, 2022, and 2023, <https://iaac.mn/post/151812>, accessed on 16<sup>th</sup> May 2024.

<sup>129</sup> News.mn, N.Manduul was unethical? Article 13<sup>th</sup> October, 2023, <https://news.mn/r/2679781/>; Imongolia, Court:J.Erdenebet and others' corruption case is justified by 15 files, Article 2020, <https://imongolia.mn/post/52867>, News.mn, Whistleblow on Development Bank or fight between Mongolian People's Party Causes, Article 9<sup>th</sup> February 2024, accessed on 27<sup>th</sup> July 2024.

<sup>130</sup> Unified Legal Information System, Law on Anti-Corruption 2006, Chapter Three. <https://legalinfo.mn/mn/detail?lawId=8928>, accessed on 6<sup>th</sup> March 2024.

public administration<sup>131</sup>. The cooling-off period is short and, public officials are not monitored during the period between resigning from public office and assuming a position at the private sector company. The 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.

The independence of the judiciary is guaranteed in the Constitution (Art. 49) and the Law on Court. The previous Code of Ethics of judges, adopted in 2014 by the Board of the Judicial Committee of the Bar Association, based on the Bangalore Principles of Judicial Conduct,<sup>132</sup> was annulled upon adoption of the new Law on Courts of Mongolia in 2021. 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. The Prosecutors' Code of Ethics was adopted by the President of Mongolia in 2018<sup>133</sup> however, there is no specific code of conduct for the judiciary. The Law on Courts contains detailed regulations on the prevention of conflicts of interest. Judicial ethics shall be reviewed upon selection of judges by text scoring of up to 30% out of a total of 100% eligibility. The other 70% of the selection assessment is based on professional qualification, professional capacity and knowledge on laws.

Those who are listed in the List of Public Officials to File Asset and Income Declarations<sup>134</sup> adopted by the Standing Committee on Legislations of the Parliament are not considered as PEPs regardless of their ability to be influential in major political decisions, licensing and contract signing. A Standing Committee of the Parliament is not capable by applicable law (The Law on Parliament Procedure) to sign, adopt or make any decisions on behalf of the Parliament but, it may review and suggest/propose the Parliament an approval, a signatory or a final decision. The List of Public Officials to File Asset and Income Declarations<sup>135</sup> adopted by the Standing Committee on Legislations of the Parliament is in violation of the Constitution of Mongolia and the Law on Parliament Procedure. This needs to be corrected considering the potential of a dispute that might arise from this.

### Good practices

- Mongolia has adopted ethics legislative measures applicable to candidates for the three different elections to public office, the Presidential election; the Parliamentary (The State Great Khural) election; and the election of Citizens'

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<sup>131</sup> Law on Regulation of Prevention from Public and Private Conflict of Interest (Conflict of Interest Law) 2012, Article 11.2; 11.3; 16.7;16.8;17.4, 20.3; 20.5; 21.1; 22.3, <https://legalinfo.mn/mn/detail?lawId=397>, 27<sup>th</sup> July 2024.

<sup>132</sup> UNODC, The Bangalore Principles of Judicial Conduct, 2002 [http://www.unodc.org/pdf/crime/corruption/judicial\\_group/Bangalore\\_principles.pdf](http://www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf), accessed on 16<sup>th</sup> May 2024.

<sup>133</sup> President of Mongolia, Prosecutors' Code of Ethics, Decree 10 of 2018, <https://legalinfo.mn/mn/detail?lawId=16389840697621>, accessed on 16<sup>th</sup> May 2024.

<sup>134</sup> IAAC, Assets and Income Declaration file by public officials and reviewed by the IAAC, <http://www.xacxom.iaac.mn/>, accessed on 17<sup>th</sup> June 2024.

<sup>135</sup> Standing Committee on Legislations, Parliament of Mongolia, List of Public Officials to File Asset and Income Declarations 2024, Resolution 05, Enclosure 10, Standing Committee on Legislations of the Parliament, [https://cdn.greensoft.mn/uploads/users/3172/files/10\\_MG\\_jagsaalt.pdf](https://cdn.greensoft.mn/uploads/users/3172/files/10_MG_jagsaalt.pdf), accessed on 25<sup>th</sup> February 2024.

Representatives Khurals. Ethical criteria are prescribed to candidates for the capital city, districts and soums (divisions of provinces) elections.

- A person who has been convicted of a criminal offense by a valid court decision is prohibited from running for office.
- Candidates shall file preliminary declarations of personal interest, assets and income to the IAAC immediately after the registration as an election candidate and non-filing the declaration shall constitute ineligibility to run for an election.
- The IAAC posts the declaration of assets and income of all registered candidates online on the day the ID card for candidacy is issued to candidates.
- Laws and regulations have clear definitions of ethical standards and clearly restrict conflicts of interest.
- There are five different declarations filed by public officials, including the asset and income declaration by public officials listed by the Standing Committee on Legislations of the Parliament, including the Politically Exposed Persons listed in the Law on Conflict of Interest.
- Members of the Parliament, judges, prosecutors and high-level public officials report their asset and income declarations annually.
- IAAC inspects the asset and income changes and omission of their reporting is reported to the public, taking accountability measures against wrongdoers.
- The Law on Civil Service and the Ethics of Public Officials prohibits permanent public officials from being a political party member or supporting any political actions, and they must remain neutral while avoiding influence from political party, coalition, or movement.
- The 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.

## **Deficiencies**

- The laws on the Presidential, Parliamentary and local elections do not restrict or prohibit people who have been penalized or assumed a disciplinary action for conflict of interest from running for office.
- Only two out of the three main parliamentary political parties, namely the Democratic Party, and the Mongolian People's Republican Party, specified in their charter that a person who is convicted of a corruption crime will have their membership suspended.
- There is no record of the Standing Committee on Ethics and Discipline of the Parliament inspecting asset and income declarations of Parliament members based on complaints and request the IAAC in the event of any discrepancies or suspicions upturned in the due course.
- Ethics Committees defined in laws do not operate. Inquiries to the IAAC and Civil Service Council as well as the organizations' website provided no information on violations of ethics rule, complaints, resolution, and accountability.
- There is no Code of Ethics for judges. Selection criteria for judges does not require ethical standards.
- There has been no gift and hospitality disclosure made by any public officials in the past.
- There are no definite criteria in any laws for the advisor who is appointed by the members of the Parliament, ministers or heads of agencies and governors.

- The number of inspected asset and income declarations by the IACC is quite low.
- Those who are listed in the List of Public Officials to File Asset and Income Declarations adopted by the Standing Committee on Legislations of the Parliament are not considered as PEPs regardless of their ability to be influential in major political decisions, licensing and contract signing.
- The List of Public Officials to File Asset and Income Declarations was adopted by the Standing Committee on Legislations of the Parliament in violation of the Constitution of Mongolia and the Law on Parliament Procedure.

#### **4.1.6 Art. 8.4 and 13.2 – Reporting Mechanisms and Whistleblower Protection**

Article 16.12 of the Constitution of Mongolia says “The citizens of Mongolia shall enjoy a right and freedom to submit a petition or a complaint to State bodies and officials. The State bodies and officials are obliged to respond to the petitions or complaints of citizens in conformity with the law”.<sup>136</sup> Part 17 of the same Article says ‘The citizens of Mongolia shall have a right to seek and receive information except that which the state and its bodies are legally bound to protect as secret. In order to protect human rights, dignity, and reputation of persons and to ensure national defense, security, and public order, the information which is not subject to disclosure must be classified and protected by law’. Accordingly, if a human basic right defined in the Constitution has been deprived, the state bodies and officials are obliged to review and respond. The state must cease any actions or inactions against the community and resolve complaints to prevent possible losses or damage. This definition is the foundation of the legal concept established in Mongolia which describes the key concept of relation between the state and a citizen.

The National Anti-Corruption Strategy has defined objectives to improve the legal framework, including on protection of whistleblowers and build up a culture to blow the whistle by public. One objective of the aim of the establishment of a corruption prevention system for special functions in charge of disaster prevention, emergency operations and national security, is to create a legal environment to protect whistleblowers at the special function offices in charge of national security. Promoting whistleblowing and improving a whistleblowing mechanism in the private sector is a mandatory objective to be implemented within the framework of the Strategy. The Parliament of Mongolia adopted the Action Plan of the National Anticorruption Strategy on 16<sup>th</sup> May 2024.<sup>137</sup>

The Law on Human Rights Defenders was adopted in 2021 to protect human rights defenders, promote, respect, ensure activities of and cooperate with human rights defenders, and to regulate activities of the Human Rights Defenders’ Committee which consists of different stakeholders including CSOs representatives, with a permanent unit to assist the members of the Committee. The Human Rights Defenders’ Committee shall determine whether human rights defender’s rights have been breached. A stipulation on the protection of human rights defenders is symbolic, with proclamation clauses stating the right to be protected, restore violated rights, and to

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<sup>136</sup> Constitution of Mongolia, <https://legalinfo.mn/mn/detail?lawId=367>, accessed on 24<sup>th</sup> March 2024.

<sup>137</sup> Parliament 2024, <https://d.parliament.mn/tusul/bc6d6a88-dbab-4cd0-ad0c-ccd85712a491>, accessed on 16<sup>th</sup> June 2024.



be compensated for economic and other losses, according to the laws. Other protections, such as from the state, are not regulated. Overall, the Law on Human Rights Defenders has not been assessed and information about activities of the Committee and its permanent secretariat is not available.

Mongolia does not have a specific whistleblower protection law. The IAAC and the Ministry of Justice and Home Affairs jointly set up a working group to draft the Whistleblowers' Protection Law from 2017. The draft Law was presented by the Prime Minister of Mongolia to the Speaker of the Parliament personally<sup>138</sup> in 2021 and the draft was scheduled<sup>139</sup> to be discussed by the Parliament a couple of times. However, the draft was never discussed and is not included in the list of legislations to be discussed during Parliament session.

It is considered a fundamental right of a citizen to file a complaint; therefore, filing a complaint or information about injustice, corruption or unfair treatment by public officials is considered as a duty. However, protection for whistleblowers, informants, or complaint lodgers is not ensured. As the protection mechanism is not established in Mongolia for the whistleblowers, informants, or complaint loggers, and due to the lack of information on the progress of complaints, citizens and public officials are cautious about filing a complaint. Although the number of complaints is increasing, both citizens and civil servants lack legal understanding about the protection of whistleblowers, informants, or complaint lodgers. Moreover, there is no information on protection after submitting a complaint. Furthermore, the general public perceives that the inspection of whistleblowers, informants, or complaint lodgers is much more prevalent than inspecting the information itself.<sup>140</sup>

The IAAC promotes the complaint lodging processes and continuously encourages submitting complaints through all government offices' websites, directly linked to a complaint platform of the IAAC.<sup>141</sup> Complaints can be submitted through the website, personally, by post, hot-line, email, and fax with the option of submitting them anonymously. Three percent of all complaints received by the IAAC are anonymous.<sup>142</sup> The anonymous information is inspected and, if there are legal grounds, the case is opened and investigated, same as the complaints made with names. Complaints, requests and information have increased each year by 20 percent. The IAAC received 2282 complaints in 2020, 2314 in 2021, 2785 in 2022 and 3749 in 2023.<sup>143</sup> According to the national statistics, the adult population in Mongolia is 3,504,741<sup>144</sup> and the IAAC receives, on average, 10.7 complaints per 10,000 citizens. The average number of complaints lodged through the IAAC website increased 10 times, personally submitted

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<sup>138</sup> The PM presents the draft law on Cabinet Structure and budget.

<sup>139</sup> Unified Legal Information System, List of legislations to be discussed during one session is adopted by the Parliament

<https://legalinfo.mn/mn/detail?lawId=17048131804421&fbclid=IwAR28WbozTH2Q4uFH4XDsGiqXvdgZunVA1kYPMHsn8vFrTDmRogoEps0ECZc>, accessed on 16<sup>th</sup> June 2024.

<sup>140</sup> ISee 2019, IAAC press conference, <https://isee.mn/n/871>, accessed on 15 March 2024.

<sup>141</sup> IAAC, Complaint platform, <https://iaac.mn/gomdol-medeelel-uguh>, accessed on 16<sup>th</sup> June 2024.

<sup>142</sup> IAAC, Annual report 2020, 2021, 2022, 2023, [https://iaac.mn/posts?category\\_id=13945](https://iaac.mn/posts?category_id=13945) accessed on 16<sup>th</sup> June 2024.

<sup>143</sup> IAAC, Annual report 2020, 2021, 2022, 2023, [https://iaac.mn/posts?category\\_id=13945](https://iaac.mn/posts?category_id=13945) accessed on 16<sup>th</sup> June 2024.

<sup>144</sup> National Statistical Office 2024, <https://www.1212.mn/mn/statistic/fun-statistic/population>, on 16<sup>th</sup> June 2024.

complaints 3.7 times, hot-line complaints 20 times, and those submitted through post and letters doubled from 2017 to 2023.<sup>145</sup> Complaints from the capital city comprise 53.8 percent, and from the countryside, 46.2 percent. 57 percent (28176) of assets and income declarations submitting officials are from the capital city and 43 percent from the countryside. Among the complainants, Bayan-Ulgii province, which has the highest number of minorities, has the highest number of complaints to the IAAC, with an average of 7.4 percent of all complaints. The officials emphasized the complaint lodging mechanisms are adequate and accessible for all citizens, regardless of their special needs or disability.

Whistleblowers who revealed information were not officially protected from the police and were investigated, interrogated, and, in some cases, arrested for non-disclosure of the source of information.<sup>146</sup>

The Government initiated various anti-corruption initiatives in 2021 and 2023.<sup>147</sup> Within the framework of 'Five Sh' operation to be implemented for the period of one year, in 2023, the Government aimed at reducing corruption by intensifying 'Whistleblowing Operation' operations. Whistleblowers shall inform the Government's 11-11 hot-line information and complaints about unfair treatment by civil servants, breach of laws, illegal appointees, corruption and, conflict of interest. The information is sent to the Government's Cabinet Secretariat where it is classified and distributed according to the jurisdiction. There is no data and statistics available on this. Complaints made through the Government's service hotline 11-11 complaint and request channel have no record of return with a response, and no analysis has been conducted on total complaints made to 11-11.

### **Good practices**

- The Constitution of Mongolia guarantees citizens' rights to express their voice and report wrongdoings within the public service.
- Within the framework of the 'Five Sh' operation to reduce and fight corruption, the Government announced a 'Whistleblowing Operation' asking for reports via the government's hotline regarding unfair treatment by civil servants, breach of laws, illegal appointees, corruption and conflict of interest.
- The National Anti-Corruption Strategy has defined objectives to improve the legal framework, including on the protection of whistleblowers and build up a culture of blowing the whistle among the public.
- The Law on Human Rights Defenders was adopted in 2021.
- The IAAC has all forms of complaint lodging mechanisms, including in person and online, and allows for anonymity.
- Judges, prosecutors, police officers and central and local administrative officials are obliged to immediately report any corruption-related information obtained while performing their official duties at IAAC.

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<sup>145</sup> IAAC, Annual report 2020, 2021, 2022, 2023, [https://iaac.mn/posts?category\\_id=13945](https://iaac.mn/posts?category_id=13945) accessed on 16<sup>th</sup> June 2024.

<sup>146</sup> Livetv 2024, The whistleblower judge is investigated <https://www.livetv.mn/p/300470>; Snews 2023, Faith of whistleblowers revealed cases <http://www.snews.mn/news/post/6146>, accessed on 16<sup>th</sup> June 2024.

<sup>147</sup> The Government of Mongolia, Resolution 120 of 2021 <https://pcsp.gov.mn/wp-content/uploads/2023/09/15.pdf>; Unified Legal Information System, Resolution 49 of 2023 <https://legalinfo.mn/mn/detail?lawId=16758483267221>, accessed on 9<sup>th</sup> May 2024.

- The 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.

### **Deficiencies**

- There is no review or report in relation to the implementation of the Law on Human Rights Defenders by the Human Rights Defenders' Committee.
- Mongolia does not have a Law on Whistleblowers' Protection.
- There is no protection mechanism in place for whistleblowers, informants, or complaint lodgers' protection and there is a lack of information on the progress of complaints. As a result, citizens and public officials are very cautious in proceeding with investigating complaints.
- Whistleblowers revealing information are not officially protected by the police and have been investigated, interrogated and, in some cases arrested for non-disclosure of the source of information.
- Although the complaints response from the IAAC was around 98 percent, other public organizations' complaints resolution process is unclear and insufficient.

### **4.1.7 Art. 9.1 – Public Procurement**

The Law on Procurement of Goods, Works and Services by State and Local-Owned Assets (Procurement Law)<sup>148</sup> was adopted in 2023 and developed an e-procurement system for the public procurement: [www.tender.gov.mn](http://www.tender.gov.mn). All applicable procedures to implement the Procurement Law were also revised and adopted in 2023. The law distributes information about procurement planning, announcement, bidding, selection, participants, information about black-listed companies, information about any changes that may occur in bidding, contract performance and laws and e-shopping.

The Government established the State Procurement Agency in 2020 to be in-charge of public offices' procurement, as an implementation agency of the Ministry of Finance. It is in charge of undertaking procurements pursuant to applicable laws. All information related to procurements, including black-listed companies is available online, on the website of the State Procurement Agency.<sup>149</sup> Complaints related to procurements are filed to the Ministry of Finance, and posted online<sup>150</sup> each month in excel format, with the necessary information. Since procurements are open to all participants, any participant can make a complaint if they consider that the procurement process had flaws or the decision was wrongly made. The complaint receiving authority must respond within 10 business days to the complaint lodger during which the procurement process is suspended. Suspending procurement for SOEs has been proven to hinder normal daily operations of companies.

The maximum threshold amounts that the public office or a state-owned enterprise (SOE) can purchase, without tendering processes, directly or through the price

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<sup>148</sup> Unified Legal Information System, Law on Procurement of Goods, Works and Services by State and Local Government Assets 2023, <https://legalinfo.mn/mn/detail?lawid=16760359992351>, accessed on 16<sup>th</sup> May 2024.

<sup>149</sup> State Procurement Agency, <https://spa.gov.mn/>, accessed on 16<sup>th</sup> March 2024.

<sup>150</sup> Ministry of Finance, Tender-related complaints and resolution, <https://mof.gov.mn/article/tender/tender-complain>, accessed on 21<sup>st</sup> April 2024.

comparison methods (purchase of consultancy services valued equal or less than US\$20,500<sup>151</sup>; products and goods equal or less than US\$8,800) is defined by a Government resolution.<sup>152</sup> Such direct procurements have to make purchases from the e-procurement site. The Procurement Law covers both government organizations and state-owned enterprises, even though the Law on State and Local Properties<sup>153</sup> says that only the shareholding of a SOE is defined as the 'state property'. This creates problems such as political interest and involvement in SOEs' procurement, unfair competition and monopolies, appointing senior-level SOEs' officials who handle the procurement, heavy involvement of line ministries in day-to-day operation of SOEs, negligence in accountability due to appointees' political affiliation and connections to politically exposed persons (PEPs). The SOEs cannot be operated as an individual company, and therefore operates the same as the government agency, under the control, scrutiny and instruction and review from the government.

Pursuant to the Procurement Law, the following methods are available to public offices and the state-owned enterprises to conduct a purchase or a procurement as defined in the Procurement Law: a) open tender; b) tender by comparison method; and c) direct contract method, or d) purchase from sources listed online on the e-procurement platform. Open tenders shall be organized on an online system, open to all available participants and the selection procedures in an open tender are clearly defined in the Law. A purchase through the comparison method can be made by calling for quotations online based on adopted procedures. A direct contract can be made also by posting requests online if unforeseen conditions arise and immediate purchase is required or in the event of emergency or in the event if special substance suppliers are limited. A tender announcement is posted on a procurement website for at least 15 days and the selection process must be conducted within at least 20 days. The Ministry of Finance has adopted several procedures and methodologies to implement the Law and posted them<sup>154</sup> on the State Procurement Agency's website.

The Procurement Law covers both state bodies' and the state-owned enterprises' procurements, even though the Law on State and Local Properties says that only the shareholding of legal entities with state participation is defined as the 'state property' (Art.5 section 2/). However, any procurement, purchase or spending has to be done pursuant to the Procurement Law giving a mixed signal to the government to get more involved in the SOEs' high-level appointments and business operations and to

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<sup>151</sup> Mongolbank, Mongolbank Official Rate as of 1<sup>st</sup> January 2024

<https://www.mongolbank.mn/en/currency-rate>,

accessed on 8<sup>th</sup> June 2024.

<sup>152</sup> Unified Legal Information System, Government Resolution 02 of 2024, Maximum Budget Threshold to be Observed in Procurement, <https://legalinfo.mn/mn/detail?lawId=17047839105111>, accessed on 2<sup>nd</sup> February 2024.

<sup>153</sup> Unified Legal Information System, Law on State and Local Properties 1996,

<https://legalinfo.mn/mn/detail?lawId=492>, accessed on 16 March 2024.

<sup>154</sup> The following procedures are adopted by the Minister of Finance: Procedure on Online Procurement, its Consistency and Security, A/248 of 2023; Procedure on Registration and Validation of Information, A/249 of 2023; Procedure on Planning and Reporting on Goods, Works and Services Procured by State and Local Funds, A/250 of 2023; Procedure on Procurement Guarantee and Income Booking, A/252 of 2023; Procedure on Tender-Related Complaint Handling, A/253 of 2023; Assessment Committee and Remuneration Procedure, Decree A/254 of 2023; Methodology on Tender Assessment and Rights to Advantage, A/255 of 2023; Methodology on Value Assessment of Tenders on Supply of Goods and Providing Services, A/256 of 2023 <https://spa.gov.mn/>, accessed on 16<sup>th</sup> March 2024..

manage SOEs same as the government offices. This is considered<sup>155</sup> as the main provision creating conflicts of interest in the appointment of officials at SOEs, which leads to conflicted decision-making processes and the creation of rent-seeking groups that profit from procurement processes.

Furthermore, although state-owned legal entities assume responsibilities and key authorized people assume accountabilities pursuant to applicable laws, they cannot operate on their own as an individual legal entity due to following reasons:

- Selection, appointment and promotion at SOEs are not compliant with the internal human resource procedures of the companies, CEOs cannot conduct the normal selection processes; rather, nomination is done by high-level public officials or PEPs;
- All procurement planning, decisions, processes and complaint resolutions related to tendering, assessments and audits are approved, modified and conducted by the state ministries and state agencies including the assessment of the CEO's performance although (some) SOEs have their own Boards and Audit Departments. On the other hand, the accountability for wrongdoing is clearly defined for CEOs and the legal entity itself in the Criminal Code, the Conflict of Interest Law, the LAC and other applicable laws;
- The state administrative central authority in charge of finance and budget (Ministry of Finance) can suspend the procurement and resolve the complaint (if made) within 10 business days. Legal entities' normal operation is suspended as it may not announce another procurement or make the purchase of necessary goods or a works or a service related to that particular procurement;
- Unfair competition and monopoly of procurement of works, services and goods. As revealed from glass account data<sup>156</sup> of the biggest three SOEs' glass accounts, almost 60 percent of all procurements in one year, delivered by 11 companies only. 3200 tenders were organized, meaning 11 companies each received approximately 174.5 tenders each in a year.

There is strong political involvement in the appointment of senior officials, including board members and chief executive officers of state-owned legal entities. Since appointees are politically affiliated, state-owned legal entities cannot operate as an individual company, rather operating similar to a government agency, financing political decisions such as distributing cash to the public<sup>157</sup> or funding political decision implementations before elections<sup>158</sup> to support the ruling party's agenda.

The state procurements on advisory or consultancy works have never been assessed by the state. The State General Audit reviews the discrepancies in accounting against International Financial Reporting Standards (IFRS). The quality of consultancy works

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<sup>155</sup> Risk and Compliance Assessment of Erdenes Tavantolgoi SOE (the top tax payer and the biggest SOE in Mongolia), Transparency International Mongolia 2021.

<sup>156</sup> Datastory 2024, Procurement data analysis, <http://datastory.mn/article/40>, accessed on 26<sup>th</sup> May 2024.

<sup>157</sup> Factcheck.mn, Cash was distributed five-times before elections, article 2024, <https://factcheck.mn/post/8240>, accessed on 2<sup>nd</sup> July 2024.

<sup>158</sup> UBN.mn, Democratic Party's Press Conference 2024, <https://ubn.mn/p/61200>, accessed on 4<sup>th</sup> July 2024.

provided to the Parliament, the Government, the President's Secretariat, ministries and agencies have been weak, resulting in a weak quality of overall performance of the government, spending both international and state budgets (purchased directly or through the comparison method under the threshold and via tenders). In addition, compliance with FATF Recommendations,<sup>159</sup> including the identification of contractors' beneficial owners and conducting due diligence is completely neglected in all government processes, including the license allocation, contract signing, procurement allocation, etc. 51.2 percent of complaints resulted in re-organizing procurements and only in 10.4 percent the state central administrative authority resolved that the procurement organizer's decision was right.<sup>160</sup>

The objectives of the National Anti-Corruption Strategy for 2023-2030 are specifically designed to resolve issues related to state and SOEs' procurement by identifying the procurement corruption risks by process mapping, establishing a special unit to examine data and conduct analysis on corruption risks of procurement, refining the compiled registration of procurement, and increasing public monitoring on planning, performance, implementation and accountability. The Strategy aims to disclose all information on procurement (other than that classified as a state secret) of the special law enforcement and national security organizations, including the State Emergency Commission, the police, and Ministry of Defense and ensures legal stipulations to guarantee disclosure of the emergency, military and police forces funds which are confidential. The classification of the information of these organizations shall be revised as a priority work.

There is a lack of transparency in procurement and due diligence processes of special funds, particularly that of the General Health Insurance Authority which is administered by an independent Law on Health Insurance.<sup>161</sup> An ad-hoc committee for inspecting the causes and conditions of medicine price increases was established by the Parliament on 30<sup>th</sup> June, 2023 for the purpose of determining the reason for high pricing and low quality of imported medicines and the main suppliers' integrity. 150 witnesses testified, and after three days of hearing,<sup>162</sup> the committee announced that it will develop a report of the hearing and send it to the relevant law enforcement agency. There has been no other news about progress and follow-up, including accountability to the respondents.

### **Good practices**

- The new Procurement Law of 2023 foresees the distribution of information about procurement planning, announcement, bidding, selection, participants, information about black-listed companies, information about any changes that may occur in bidding, contract performance and laws, and e-shopping.
- The Government established the State Procurement Agency in 2020.
- All government offices' direct purchases and procurements shall be conducted through the e-procurement platform.

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<sup>159</sup> FATF, <https://www.fatf-gafi.org/en/topics/fatf-recommendations.html>, accessed on 20<sup>th</sup> May 2024.

<sup>160</sup> Ministry of Finance, Tender-related complaints and resolution, <https://mof.gov.mn/article/tender/tender-complain>, accessed on 21<sup>st</sup> April 2024.

<sup>161</sup> Parliament, Parliament hearing on health sector procurement and supply price of medicines, April 2024, <https://www.parliament.mn/nn/62218/>, accessed on 4<sup>th</sup> June 2024.

<sup>162</sup> News.mn, Article, Ad hoc committee will hold a hearing 2024, <https://news.mn/en/800743/>, accessed on 2<sup>nd</sup> July 2024.

- Complaints related to procurement can be filed by anyone and the resolution is posted online by the Ministry of Finance.
- Since procurements are open to all participants, any participant can make a complaint if they consider that the procurement process had flaws or the decision was wrongly made.
- The Government sets the maximum threshold for direct purchases.
- Purchases below the threshold can be made directly, making purchases only from the e-procurement site's available items.
- The National Anti-Corruption Strategy for 2023-2030 has precise objectives designed to resolve issues related to state and SOEs' procurement and to improve the efficiency of the purchase made by public funds. The Strategy aims to disclose all information on procurement (other than that classified as a state secret), including that of the emergency funds, military and police forces which are confidential.

### Deficiencies

- There is a strong political involvement in appointment of senior officials, including board members and chief executive officers of the state-owned legal entities.
- Due to political involvement in appointment and operations, state-owned legal entities have become a source of political financing and government projects that have political purposes to gain public votes.
- Regardless of tendering organized through the online platform, political involvement is still high in the selection of tenders.
- The complaint receiving authority must respond within 10 business days to the complaint lodger, during which the procurement process is suspended. Suspending procurement for SOEs has been proven to hinder normal daily operations of companies.
- The quality of consultancy services provided through direct purchases and tenders is inadequate.
- Beneficial owners of tendering companies are not checked in the selection of tenderers.
- Funds spent during the COVID-19 emergency are not disclosed on glass accounts, and no public officials are held accountable.
- There is a lack of transparency in procurement and due diligence processes of special funds, particularly that of the General Health Insurance Authority, which is administered by an independent Law on Health Insurance.

#### 4.1.8 Art. 9.2 – Management of Public Finances

Management of public finances is conducted based on the Law on Budget,<sup>163</sup> Law on Budget Stability,<sup>164</sup> Law on Consolidated Budget's 2024 Budget Framework

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<sup>163</sup> Unified Legal Information System, Law on Budget 2011  
<https://legalinfo.mn/mn/detail?lawId=12254>, accessed on 22<sup>nd</sup> May 2024.

<sup>164</sup> Unified Legal Information System, Law on Budget Stability 2010  
<https://legalinfo.mn/mn/detail?lawId=503>, accessed on 22<sup>nd</sup> May 2024

Announcement and 2025-2026 Budget Projection<sup>165</sup>, Law on State Austerity<sup>166</sup>, Law on Debt Management,<sup>167</sup> Law on Glass Accounts<sup>168</sup> and the Law on Public Information Transparency.<sup>169</sup> In addition, the Government manages 24 special funds based on an individual law or pursuant to the Law on Government Special Funds.<sup>170</sup> The Health Insurance Fund and Social Insurance Fund are formed from collecting citizens' premiums, the Small and Medium Enterprise Promotion Fund is formed from the repayment of lending, and other funds are formed from the budget annually. Furthermore, international donor organizations' donations, assistances, concessional or other loans are managed by the Government. Certain government expenditures are paid off by state-owned enterprises.

Applicable laws on budget and finance have incorporated features defining transparency and accountability. All spending of the budget by a) SOEs, b) state-owned production; c) legal entity whose controlling shares are owned by state or local administration or their affiliated party; d) legal entity commission project, program, operation, work, or service with a state budget; e) if, a state function is commissioned under the contract, such commissioner; and f) a political party and a coalition receiving state funding have to report on the glass accounts' website,<sup>171</sup> which is linked to their organizations' website, and must comply with the Law on Glass Accounts to be transparent to the public. All procurements and tendering processes have to conform with the Law on Procurement and conducted by the Procurement Agency via [www.tender.gov.mn](http://www.tender.gov.mn), the online procurement system. The law ensures openness and transparency of public property management and requires disclosure of fund spending pursuant to the Law on Glass Account. The Law on State Austerity was adopted in April 2022, after the COVID-19 restrictions were eased. The core objective of the Law on Austerity is to safeguard the public budget on overall consumption by budget administrators and SOEs, and foster transparency, improve efficiency and implement measures to curtail monetary expenditures.

The National Anti-Corruption Strategy for 2023-2030 has defined clear provisions to improve overall public fund management transparency and accountability, such as to establish budget, expenditure and performance external monitoring on national development policy and planning-related developments (5.5.1, Goal Five) to prevent from potential corruption in big projects; enhance comprehensiveness of documents of budget, finance and audit and its human rights-and gender-based monitoring and oversight during projection, discussion, adoption, spending and reporting by each

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<sup>165</sup> Unified Legal Information System, Law on Consolidated Budget's 2024 Budget Framework Announcement 2023 <https://legalinfo.mn/mn/detail?lawId=16759636332741>, accessed on 22<sup>nd</sup> May 2024.

<sup>166</sup> Unified Legal Information System, Law on State Austerity 2022, <https://legalinfo.mn/mn/detail?lawId=16468624002961>, accessed on 22<sup>nd</sup> May 2024.

<sup>167</sup> Unified Legal Information System, Law on Debt Management 2015, <https://legalinfo.mn/mn/detail?lawId=10933>, accessed on 22<sup>nd</sup> May 2024

<sup>168</sup> Unified Legal Information System, Law on Glass Accounts 2014, <https://legalinfo.mn/mn/detail?lawId=10497>, accessed on 22<sup>nd</sup> May 2024.

<sup>169</sup> Unified Legal Information System, Law on Public Information Transparency 2021, <https://legalinfo.mn/mn/detail?lawId=16390263044601>, accessed on 22<sup>nd</sup> May 2024.

<sup>170</sup> Unified Legal Information System, Law on Government Special Funds 2019, <https://legalinfo.mn/mn/detail?lawId=14848>, accessed on 22<sup>nd</sup> May 2024.

<sup>171</sup> Glass accounts' website of government offices, <https://shilendans.gov.mn/>, accessed on 22<sup>nd</sup> May 2024.



class and budget administrators, Government and Parliament and reduce corruption by ensuring transparency and fair engagement of public in projection and planning; enhance transparency and monitoring on feasibility reports of big projects and mining, infrastructure and development projects; terminate spending from non-budgetary expenditures from SOEs; eliminate cash transactions to reduce shadow market; improve special funds and insurance funds collection, planning, and spending; and improve due diligence and identification of beneficial owners of any deals and contracts signed with the state (Goal Seven).

The state central administrative authority in charge of finance and budget must develop the annual budget proposal and submit it on or before the 15<sup>th</sup> of August each year to the Parliament for discussion and approval. Such proposal must be developed in line with the mid-term budget framework statement and the state annual development action plan, upon receiving comments from the state central administrative authority in charge of economic and development.

A three-year arrangement for Mongolia under the Extended Fund Facility (EFF)<sup>172</sup> was approved on May 24, 2017, in an amount equivalent to US\$425 million. The arrangement was part of a \$5.5 billion multi-donor financing package that supports the authorities' Economic Recovery Plan. The extended arrangement was subject to quarterly reviews and ended in February 2020. Annually, the Government proposes the budget for the next year during the previous year's Parliament session. In the state budget, revenue was projected to be US\$5.5 billion in 2023, and spending was estimated to be US\$5.9 billion. In 2024, revenue was projected to be around US\$7.4 billion<sup>173</sup> or 36.7 percent of the GDP and spending at around US\$7.9 billion with a deficit of US\$4 million, always with deficits.<sup>174</sup>

In general, the Ministry of Finance prioritizes short-term activities and projects which require amendments to the state budget in due course. The Law on Budget Stability was revised 14 times since its adoption in 2010. Due to the lack of project lifespan monitoring (block-chain coding), budget funded projects are often dubious, unfairly valued, lack quality or are double-funded without knowledge of members or the public.<sup>175</sup> Without lifespan-coding, projects use different names (for example: a bridge project used 'a bridge in province' in the 2019 budget and 'infrastructure on the river' in the 2020 budget) making it difficult for the public to monitor double-funding and state budget expenditure efficiency. The public has expressed frustrations about the unfair spending of the state budget which is usually linked to politicians and public officials' conflicts of interest.<sup>176</sup> Mongolia had a Law on Concession<sup>177</sup> adopted in 2010 and

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<sup>172</sup> IMF 2018, <https://www.imf.org/en/Publications/CR/Issues/2018/11/02/Mongolia-Fifth-Review-Under-the-Extended-Fund-Facility-Arrangement-and-Request-for-46323>, accessed on 20<sup>th</sup> May 2024.

<sup>173</sup> Mongolbank, <https://www.mongolbank.mn/en/currency-rate>, Rate between 30-31 October 2023(as regularly used by the Ministry of Finance of Mongolia), accessed on 20<sup>th</sup> May 2024.

<sup>174</sup> IMF 2018, <https://www.imf.org/en/Publications/CR/Issues/2018/11/02/Mongolia-Fifth-Review-Under-the-Extended-Fund-Facility-Arrangement-and-Request-for-46323>, accessed on 20<sup>th</sup> May 2024.

<sup>175</sup> National Audit Agency, Audit Reports on 2021 State Consolidated Budget Spending, Audit Reports on 2022 State Consolidated Budget Spending, [https://audit.mn/?page\\_id=3180](https://audit.mn/?page_id=3180), accessed on 20<sup>th</sup> May 2024.

<sup>176</sup> Zindaa, Cases related to the Government Concession Agreements (PPP), <https://news.zindaa.mn/243f>, accessed on 20<sup>th</sup> May 2024.

<sup>177</sup> Unified Legal Information System, Law on Concession 2020, <https://legalinfo.mn/mn/detail?lawId=312>, accessed on 4<sup>th</sup> July 2024.

annulled in 2022 upon adoption of the Law on Public-Private-Partnership.<sup>178</sup> Between 2010 to 2022, the Government has signed 22 concession agreements (2 cancelled, 20 effective). All agreements are suspected<sup>179</sup> to have been signed by companies with political influence. However, the Ministry of Economic Development has not released the agreements, names of companies and funding information for the public and CSOs to monitor.

Mongolia's Ministry of Finance has established e-consultations during budget implementation. Mongolia ranked 60th out of 100 in the International Budget Partnership's Open Budget Index<sup>180</sup> in 2021. Mongolia ranked very low in the Public Participation component, with a score of 13 out of 100. Budget oversight was rated at 76 and Transparency at 60 out of 100. The Ministry of Finance publishes the Citizens' Budget online and improved the comprehensiveness of the annual budget in 2022 and 2023. In 2023, Mongolia still only scored 19 out of 100 in the Public Participation component of this Index, but scored 62 out of 100 in the Transparency, and 80 out of 100 in the Oversight components.<sup>181</sup>

Some improvements with the first public open discussions on the draft budget and the establishment of a Budget Stability Committee were undertaken in 2023 by the Standing Committee on Budget of the Parliament. After certain improvements, the Ministry of Finance published non-user-friendly scanned documents of the budget for the public after the adoption of the 2024 budget, even though previously it had published pdf files. Further strengthening public participation in the budget process should be prioritized to pilot mechanisms to engage the public during budget formulation and actively engage with vulnerable and underrepresented communities, directly or through civil society organizations representing them. Mongolia's Parliament has now established submissions related to the approval of the annual budget, but the public or civil society organizations have not participated nor testified during the budget hearing proposal prior to its approval, or on hearings on the Audit Report as the Parliament neglected to inform them.

Each 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, shall have an internal audit with functions to 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 (Art.69.1, 69.3, Law on Budget). This process is conducted throughout the organization's operation in line with the Internal Audit Rule, adopted by the Government.<sup>182</sup>

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<sup>178</sup> Unified Legal Information System, Law on Public-Private-Partnership 2022, <https://legalinfo.mn/mn/detail?lawId=1653262944557>, accessed on 4<sup>th</sup> July 2024.

<sup>179</sup> Medee.mn, Show around concession agreements, article 2017, <https://www.medee.mn/p/109350>, Zindaa.mn, Exchange of friends and party, Article 2017, <https://news.zindaa.mn/243f>, accessed on 10<sup>th</sup> July 2024.

<sup>180</sup> International Budget Partnership, Open Data Survey 2021, <https://internationalbudget.org/wp-content/uploads/Open-budget-survey-2021-1.pdf>, accessed on 20<sup>th</sup> May 2024.

<sup>181</sup> International Budget Partnership, Open Data Survey 2023, <https://internationalbudget.org/wp-content/uploads/rankings-charts-OBS-2023.pdf>, accessed on 11<sup>th</sup> July 2024.

<sup>182</sup> Unified Legal Information System, Government Resolution 483 of 2015, <https://legalinfo.mn/mn/detail?lawId=11542>, accessed on 20<sup>th</sup> May 2024.

Implementation of laws is weak, and there are inconsistencies between the Law on State and Local Administrative Property and governance standards, creating a major conflict of interest in the appointment of key officials at SOEs, further promoting corruption and rent-seeking groups that profit from SOE spending. According to the governance standards, SOEs must have good governance, selection and appointments made based on their criteria, and limit political involvement and interference, which do not exist in SOEs of Mongolia.

The approved budget is not directly transferred to government offices' accounts. To receive the approved budget, government offices submit a detailed monthly plan of activities to the Ministry of Finance. No more than a month's spending is transferred to the government offices from the Ministry of Finance. The budget is transferred in the first week of the month, which shows organizing activities or any work at the beginning of the month is almost unfeasible unless the organization uses its residue of the previous month, which affects the independence of public institutions and makes each organization highly dependent on the decision of the Ministry of Finance.

Procurements were not conducted using the online procurement system during the implementation of the Law on COVID-19,<sup>183</sup> making direct and immediate purchases normal with no accountability. Foreign donors' aid and concessional and other loans extended from early 2020 to late 2021 to the Government of Mongolia during COVID-19 estimates at around US\$675 million.<sup>184</sup> The Economic Standing Committee of the Parliament announced a public hearing on pandemic spending on 9-10 October 2023 which never took place. Up until now, the transparency of such an amount of spending is not available anywhere for the public to review, monitor, and assess. Furthermore, the Mongolian Government failed to conduct audits on the spending of loans, disclose findings, reveal beneficial owners of contracted entities, and information about legal entities that received funds for work, service, or purchase of goods according to loan documents of IFC and other foreign donations, assistance, and loans.

### **Good practices**

- Applicable laws on budget and finance have incorporated features defining transparency and accountability. The laws ensure openness and transparency of public property management and require disclosure of fund spending.
- The Law on Glass Accounts has clear definitions and requirements for all public offices, including SOEs, to report receipt of funds and spending on a glass account website.
- All procurements and tendering processes have to conform with the Law on Procurement and be conducted by the Procurement Agency via <http://www.tender.gov.mn/>, the online procurement system.
- The National Anti-Corruption Strategy for 2023-2030 has defined clear provisions to improve overall public fund management transparency and accountability, identifying all key requirements and international compliance rules as objectives.

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<sup>183</sup> Unified Legal Information System, Government of Mongolia, Resolution 167 of 2020, Law on Economic Recovery and Social Welfare During COVID-19 Pandemic, <https://legalinfo.mn/mn/detail/15358>, accessed on 5<sup>th</sup> May 2024.

<sup>184</sup> Mongolbank, Including different currencies. Mongolbank, Official Rate as of 1<sup>st</sup> January 2024 <https://www.mongolbank.mn/en/currency-rate>, accessed on 8<sup>th</sup> June 2024.

- The Budget Stability Committee was established at the initiative of the Standing Committee on Budget of the Parliament in December 2023.
- All government offices have an internal audit department.

### **Deficiencies**

- Government special funds, the health insurance fund, and social insurance fund accounts are neither transparent nor managed by professional fund managers. Funds are managed by the Prime Minister and ministers of relevant sectors.
- Certain government expenditures are paid off by state-owned enterprises; thus, these expenses are not included in the budget.
- The state budget deficit has increased year by year. State budget planning and management have not improved even after the IMF's Extended Fund Facility receipt to manage the budget efficiently.
- The government prioritizes short-term activities and projects that require an amendment in the state budget in due course. The state budget is approved with excessive deficits.
- Politicians are suspected of involvement in decision making and allocation of the Concession Agreements signed as a Public-Private-Partnership.
- Due to the lack of project lifespan monitoring (block-chain coding), budget-funded projects are often dubious, unfairly valued, lack quality, or are double-funded without the knowledge of members or the public.
- Inconsistency in the Law on State and Local Administrative Property and governance standards.
- Citizen participation in the budget is insufficient. Budget information posted publicly is not user-friendly, which makes it difficult for citizens to assess and review.
- The annual approved budget is not directly transferred to government office accounts.
- There is no requirement in the Law on Glass Account to disclose and post information on foreign donations and assistance on a glass account by the organization.
- Contract transparency, due diligence, and identification of beneficial owners is not mandatory in a glass account.
- Procurements were not conducted using the online procurement system during the implementation of the Law on COVID.

#### **4.1.9 Art. 10 and 13.1 – Access to Information and the Participation of Society**

The Constitution of Mongolia, part 17, Article 16 ensures public access to information, stating 'The citizens of Mongolia shall have a right to seek and receive information except that which the state and its bodies are legally bound to protect as secret. In order to protect human rights, dignity, and reputation of persons and to ensure national defense, security, and public order, the information which is not subject to disclosure must be classified and protected by law'.<sup>185</sup> Access to information by the public and participation of society is regulated and ensured pursuant to the Law on Transparency

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<sup>185</sup> Unified Legal Information System, Constitution of Mongolia, <https://legalinfo.mn/mn/detail?lawId=367>, accessed on 24<sup>th</sup> March 2024.

of Public Information,<sup>186</sup> the Law on State and Official Secrecy,<sup>187</sup> the Law on Personal Information Protection,<sup>188</sup> the General Administrative Law,<sup>189</sup> the Law on Public Hearing<sup>190</sup> and, certain clauses related to public engagement in developing legislations is defined in the Law on Legislations.<sup>191</sup> The Law on Transparency of Public Information lists information that must be open to the public, while the Law on State and Official Secrecy defines the levels of confidentiality of state and official information. The General Administrative Law allows members of the general public to obtain information on the organization, functioning and decision-making process of public administration and regulates procedures on public hearings and consultations.

The General Administrative Law, the Law on Public Hearing and the Law on Legislations require public hearings and discussions that are mandatory prior to making any decisions related to general public. There are seven laws have been passed by the Parliament between 2021 and 2024 without preliminary study and public discussions.<sup>192</sup>

There are no specific restrictions in exercising the freedom to seek, receive, publish and disseminate information in the laws of Mongolia, although there is a lack of clarity on developing information to identify a beneficial owner. The Law on Private Information imposes restrictions on the collection, development and usage of personal data unless a) a permission is acquired from the owner of the information; b) if permitted by law; c) to ensure contractual compliance; d) the information is open to the public; or e) for the purpose of developing historical, scientific, cultural, or literary work or statistical information by disguising the person's identity. In the latter case, the term 'scientific work' is not defined in the law; therefore, it is unclear if the research and analyses to identify beneficial owners shall be deemed as 'scientific work' or constitute a breach to personal information.

Instead of listing confidential information to be fully or partially restricted to the public under certain conditions, the Law on Public Information Transparency has listed 67 types of information that shall be unremittingly open to the public. Any other information can be either a 'state secret' (Art.13) or 'official sensitive' (Art.14), or

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<sup>186</sup> Unified Legal Information System, Law on Public Information Transparency 2021, adopted 17 December 2021 (entered into force from 1 May 2022)

<https://legalinfo.mn/mn/detail?lawId=16390263044601>, accessed on 22<sup>nd</sup> May 2024.

<sup>187</sup> Unified Legal Information System, Law on State and Official Secrecy 2016,

<https://legalinfo.mn/mn/detail?lawId=12408>, accessed on 22<sup>nd</sup> May 2024.

<sup>188</sup> Unified Legal Information System, Law on Personal Information Protection 2021, <https://legalinfo.mn/mn/detail?lawId=16390288615991>, accessed on 22<sup>nd</sup> May 2024.

<sup>189</sup> Unified Legal Information System, General Administrative Law 2015, <https://legalinfo.mn/mn/detail?lawId=11259>, accessed on 22<sup>nd</sup> May 2024.

<sup>190</sup> Unified Legal Information System, Law on Public Hearing 2015, <https://legalinfo.mn/mn/detail?lawId=11225>, accessed on 22<sup>nd</sup> May 2024.

<sup>191</sup> Unified Legal Information System, Law on Legislations 2015, <https://legalinfo.mn/mn/law?page=law&cate=27&active=1&page=1&sort=title&page=1>, accessed on 22<sup>nd</sup> May 2024.

<sup>192</sup> Constitution of Mongolia in 2022, Criminal Code in 2022, extension of the Law on COVID in April and June 2021, Law on Protection of Public Rights on Social Media (annulled by the President of Mongolia) in 2022, Law on Wealth Fund in 2023, Law on Reducing Negative Impact to Traditional Animal Husbandry Caused Due to Climate Change in 2023, Law on Reducing Ulaanbaatar City Traffic Congestion and Housing in 2023, D-Parliament, [www.d.parliament.mn](http://www.d.parliament.mn), accessed 2<sup>nd</sup> May 2024.

accessible to public pursuant to the Law on State and Official Secrecy. On the other side, the Law on State and Official Secrecy has listed items to be kept secret. The list of state secret and official sensitive information shall be generated by the organization wishing to make it confidential. While the state's secret information list must be reviewed by the General Intelligence Authority and adopted by the Government, the official sensitive information must be adopted by the resolution of the relevant minister of the sector and/or head of the organization, with a timeline to make the information confidential and the classification level of confidentiality of information. Confidentiality classifications are "top secret"<sup>193</sup>, 'secret' and 'confidential', with a concealment period from 10 to 30 years. In 2017, there were 56 registered official sensitive information of public offices and reached over 600 in 2020,<sup>194</sup> the specific number of 'official sensitive' information as of today cannot be found by researchers and public.

On the policy-level, the main concept of the National Anti-Corruption Strategy has identified objectives to ensure: a) inclusiveness, b) transparency, and c) public participation in decision-making and policy development, regulating both digital and non-digital processes and guaranteeing human rights-based approaches to all goals and objectives with a proper and continuous review, monitoring, oversight and accountability mechanisms. It defines the following objectives, to ensure:

- openness and transparency of political financing;
- election and non-election times spending;
- civil service activities, policies, decisions, nominations, selections, and appointments;
- information on people and legal entities that have received and are receiving economic pardon;
- the prosecutors' office activities and the Chief Prosecutor's nomination and appointment;
- state audit transparency;
- corruption case flow transparency;
- beneficial ownership registry;
- the source of media funding; defined objectives aimed at ensuring the actual involvement of CSOs in developing or revising laws applicable to them; in conducting a biennial evaluation of the implementation and efficiency of digital information that is open to public; and in the assessment of development projects.

The Government adopted a Resolution 247 in 2017 on Adoption of State Secret Information List and made add-ons in 2019 (Res 196), 2020 (Res 220), 2021 (Res 294), 2022 (Res 299), and in 2023 (Res 87). This is an exhaustive list for each sector. Within the list of the Government Cabinet Secretariat's secret, economic security policy and activity related information sections that need reserving (14) and National major development, infrastructure project work, military composition that shall participate in such development, and technical equipment number, water supply source, and sections of procurement that need reserving (32) must be concealed.

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<sup>193</sup> Unified Legal Information System, Article 7.6, Law on State and Official Secrecy 2016, <https://legalinfo.mn/mn/detail?lawld=12408>, accessed on 22<sup>nd</sup> May 2024.

<sup>194</sup> Globe International 28<sup>th</sup> June 2019, Assessment of the Limitations on Access to Information Right in Mongolia, [https://www.gic.mn/public/docs/publications/Purevsuren\\_restriction\\_right\\_to\\_info.pdf](https://www.gic.mn/public/docs/publications/Purevsuren_restriction_right_to_info.pdf), accessed 20<sup>th</sup> June 2024.

These two clauses have been extensively used by the Government to conceal any information the Government needed to conceal from public.<sup>195</sup> For example, agreements related to the 'green bus' case that involved 25 public officials and caused MNT340billion (US\$100 million) loss to the country has been concealed under the item 14 and 32 of the State Secret Information List and SOEs' 4 package (104 agreements) commercial offtake agreements, involving many million US\$ deals, part of which is suspected to have been paid as a corruption to high-level public officials. This directly relates to political involvement in SOEs' business by nomination and appointment of PEPs or their affiliates in a first place which further leads to embezzlement using commercial or derivative mechanisms.<sup>196</sup>

Criminal, civil and administrative courts' primary decisions, appellate judgements and the supreme court's rulings, their proceedings, and adjudications are transparent, accessible through on an online site of the courts: <https://shuukh.mn> and <https://www.supremecourt.mn>. There were over 152557 criminal, 290035 civil and 35812 administrative court decisions as of March 2024, and each decision is posted within a week after handing over to partakers. The process is regulated by the Law on Court of Mongolia (Art. 12.4) adopted in 2021 to be regularly open to the public. The Procedure to Inform Public on Court Decisions<sup>197</sup> was adopted in of the General Judicial Council. While the IAAC's case investigation, resolution, transfer, dismissal and complain resolution statistics are in annual reports and on their website [www.iaac.mn](http://www.iaac.mn) and the National Statistical Office's site [www.1212.mn](http://www.1212.mn), police case investigation, resolution, transfer, dismissal statistics on [www.1212.mn](http://www.1212.mn), the Prosecutor Offices' information is not available to public.

According to the assessment of the Law on Public Information in 2023,<sup>198</sup> 41 percent of the legal stipulations have been implemented. Complaints can be made to the administrative organization or to the National Human Rights Commission. The National Human Rights Commission has received 6 complaints in relation to access to information, containing a significant issue such as incomplete disclosure of the 2020 and 2021 election expenditures by candidates.<sup>199</sup>

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<sup>195</sup> Agreements related to a 'green bus' case, that involved 25 public officials and caused MNT340billion (US\$100 million) loss to the country has been concealed under the item 14 and 32 of the State Secret Information List <https://gogo.mn/r/4xn5k> and SOEs' 4 package (104 agreements) commercial offtake agreements, involving many million US\$ deals part of it is suspected to be paid as a corruption to high-level public officials, <https://news.mn/r/2677085/>, accessed 14<sup>th</sup> June 2024. Mongolbank, Official Rate as of 1<sup>st</sup> January 2024 <https://www.mongolbank.mn/en/currency-rate>, accessed on 8<sup>th</sup> June 2024.

<sup>196</sup> Agreements related to a 'green bus' case, that involved 25 public officials and caused MNT340billion (US\$100 million) loss to the country has been concealed under the item 14 and 32 of the State Secret Information List <https://gogo.mn/r/4xn5k> and SOEs' 4 package (104 agreements) commercial offtake agreements, involving many million US\$ deals part of it is suspected to be paid as a corruption to high-level public officials. <https://news.mn/r/2677085/>, accessed 14<sup>th</sup> June 2024. Mongolbank Official Rate as of 1<sup>st</sup> January 2024 <https://www.mongolbank.mn/en/currency-rate>, accessed on 8<sup>th</sup> June 2024.

<sup>197</sup> General Judicial Council, The Procedure to Inform Public on Court Decisions 2022, Decree 343, <https://www.judcouncil.mn/site/decision/3>, accessed 3<sup>rd</sup> May 2024.

<sup>198</sup> B. Bilegdemberel, Director of Policy Implementation Department, Ministry of Digital Development 2023, <https://ikon.mn/n/2s1f>, accessed 3<sup>rd</sup> May 2024.

<sup>199</sup> Gogo.mn, National Human Rights Commission, Press Conference 2024, <https://gogo.mn/r/511mw>, accessed 7<sup>th</sup> July 2024.

In the list of 44 legislative drafts to be discussed within the Parliament's 2024 spring session<sup>200</sup> (75 working days since inauguration), the draft Law on Rights and Liberty of Civil Expression of Opinion is scheduled to be discussed. Insofar as the public is aware, no information about the draft, concept paper, introduction, supporting researches and analysis, or public discussion is available on websites and public discussion platforms of the Parliament's 'D-Parliament' or the Ministry of Justice and Home Affairs (MoJHA).<sup>201</sup> On January 18, 2023, the Mongolian Parliament passed a "[bill to protect human rights on social media](#)" that allows to regulate social media contents. Within a little over 48 hours after the draft proposal submitted by the Minister of Digital Development and Communication to Parliament, the bill was passed giving no space and time for the public to get acquainted with the draft. This rushed process of passing a law did not occur for the first time in the Mongolian Parliament. It turns out, the basis for such breaches of existing laws and human rights by Parliament has been laid out over the past two-year. Three laws have already been passed by Parliament in an expedited way since August 2022, all within 6 to 48 hours. Mandatory supporting studies to draft bills and public engagement, openness and transparency of drafts ensured pursuant to the law on legislations of Mongolia, effective since 2015, were disregarded in each circumstance. The only circumstances when a bill can be passed in an expedited procedure by the parliament is asserted in article 21.1 of the [bill on parliament procedure](#)<sup>202</sup> which specifically indicates that the bill has to be specifically used to ensure the 'national economic security'. However, this clause is used every-time when Parliament discusses laws in an expedited manner. In December 2023, the proposal to discuss the draft (revised) Law on Courts included provisions to establish an independent anti-corruption court in Mongolia with no prior study. Public discussion and research and analysis were completely absent to justify or to deny the need of such a court. Upon public protest against such an independent court, based on the worry that it would not be independent but rather create a mechanism to criminalize selected people based on the ruling party's discretion, the draft Law on Court was not discussed by the Parliament.

The asset and income declarations must be open to public, ensuring public access by the law (Anti-Corruption Law, 14.2). However, only a summary of collected declarations are posted online<sup>203</sup> by the IAAC and it has adopted an internal 'Procedure on Giving Information on Personal Interest and Asset and Income Declaration' adopted by Decree A/122 of 2018 according to which the IAAC shall decide within 3 days if a fully or partially detailed information of the declarations can be given to a requesting party. Civil society organizations and the media have continuously requested such information from the IAAC with no results.

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<sup>200</sup> Unified Legal Information System, Parliament Decree 16 of 2024 See: <https://legalinfo.mn/mn/detail?lawId=17048131804421&fbclid=IwAR28WbozTH2Q4uFH4XDsGiqXvdgzunVA1kYPMHsn8vFrTDmRogoEps0ECZc>

<sup>201</sup> D-Parliament, [www.d-parliament.mn](http://www.d-parliament.mn), MoJHA <https://mojha.gov.mn/contentList/62dfcd0a3982fa3c90f2a7d>, accessed 2<sup>nd</sup> May 2024.

<sup>202</sup> Unified Legal Information System, Law on Parliament Procedure 2020, <https://legalinfo.mn/mn/detail?lawId=15412>, accessed on 4<sup>th</sup> May 2024.

<sup>203</sup> IAAC, Asset and income declarations' site, <http://www.xacxom.iaac.mn/>, accessed on 4<sup>th</sup> May 2024.



In 2023, CIVICUS rated Mongolia's civic space as narrowed, with a score of 67 out of 100.<sup>204</sup> Instances of government restrictions and pressure on NGOs exist in Mongolia. For example, such pressure is experienced by NGOs that conduct monitoring and evaluation of government activities and budget execution, or those that receive financing from the state budget; and some NGO activities are subjected to inspections by the General Intelligence Agency or NGOs are denied permits or licenses.<sup>205</sup> In 2020, a leading NGO in litigation<sup>206</sup> against the illegal allocation of a uranium special permit in Sukhbaatar province was investigated by the Central Intelligence Agency.<sup>207</sup> Another example of pressure from the government on an NGO occurred in April 2024 when the IAAC Spokesperson openly criticized international organizations involved in the Corruption Perceptions Index (CPI), including Transparency International, for false assessment of Mongolia after the announcement of the 2023 CPI results.<sup>208</sup> The Spokesperson claimed all assessments are paid, with a questionable purpose and international researchers have no ethics, and a conflict of interest. Mongolia scored 33 points out of 100, ranking in 121<sup>st</sup> out of 180 countries, down by 49 places in last 9 years and down 5 places from previous year.<sup>209</sup>

### Good practices

- The Constitution of Mongolia ensures public access to information and receives information, except that which the state and its bodies are legally bound to protect as secret.
- The Law on Transparency of Public Information lists information that must be open to the public, while the Law on State and Official Secrecy defines the levels of confidentiality of state and official information.
- Access to information by the public and participation of society is regulated and ensured pursuant to the Law on Transparency of Public Information.
- The main concept of the National Anti-Corruption Strategy has identified objectives to ensure specifically: a) inclusiveness, b) transparency, and c) public participation in decision-making and policy development, regulating both digital and non-digital processes and guaranteeing human rights-based approaches to all goals and objectives with a proper and continuous review, monitoring, oversight, and accountability mechanisms.
- The National Anti-Corruption Strategy defines objectives to ensure openness and transparency of political financing; election and non-election times spending; civil service activities, policies, decisions, nominations, selections, and appointments; information on people and legal entities that have received

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<sup>204</sup> CIVICUS, People Power under attack 2023, [https://monitor.civicus.org/globalfindings\\_2023/](https://monitor.civicus.org/globalfindings_2023/), accessed on 11<sup>th</sup> July 2024.

<sup>205</sup> Civil Society Consortium, Exploring Current State of Civic Space and Identifying Its Need For a Favorable Legal Environment Study 2021, <https://documents.un.org/doc/undoc/gen/q21/396/47/pdf/q2139647.pdf?token=KdzUG0url7TadK5Rnl&fe=true>, accessed on 7<sup>th</sup> July 2024.

<sup>206</sup> Gogo.mn, Country will be in debt and people will be sacrificed, Article 2020, <https://gogo.mn/r/ky2vy>, accessed on 10<sup>th</sup> July 2024.

<sup>207</sup> News.mn, The Czech investors claimed US\$892 million and announced commencement of an arbitration, Article 2024, <https://news.mn/r/2701890/>, accessed on 10<sup>th</sup> July 2024.

<sup>208</sup> X, IAAC Spokesperson's post, 26<sup>th</sup> April 2024, <https://x.com/temuuleniaac/status/1783757442536419336?s=12&t=EcfagP7bHs5tTVdTINGSeQ>, accessed on 12<sup>th</sup> July 2024.

<sup>209</sup> Transparency International, Corruption Perception Index 2023, <https://www.transparency.org/en/cpi/2023/index/mng>, accessed on 16<sup>th</sup> March 2024.

and are receiving economic pardon; state audit transparency; corruption case flow transparency; beneficial ownership registry; and the source of media funding.

- Personal information confidentiality is safeguarded by laws, and a third party needs consent from the data owner before using the information.
- At least by law, public hearings and discussions are ensured and mandatory prior to making any decisions related to the general public pursuant to the Law on General Administrative Law, the Law on Public Hearing and the Law on Legislations.
- Court decisions, appellate judgements and the supreme court's rulings, proceedings, and adjudications are transparent and accessible through an online website. Each decision is posted within a week after handing it over to partakers.

### **Deficiencies**

- Overall, the Law on Public Information Transparency is not about transparency of information but about the state's use of personal information and the restrictions on its use by the public.
- Instead of listing confidential information that can be fully or partially restricted to the public under certain conditions, the Law on Public Information Transparency has listed 67 types of information that shall be unremittably open to the public. The state or any public organizations can, at their discretion, designate any other information as a 'state secret' or 'official sensitive'.
- The amount of information taken under secrecy is rising.
- While there are no restrictions in exercising the freedom to seek, receive, publish and disseminate information in the laws of Mongolia, there is a lack of clarity on developing information to identify a beneficial owner.
- The Law on Private Information imposes restrictions on the collection, development, and usage of personal data. One of the possibilities to use personal information is in relation to conducting 'scientific work'. However, the term is not defined in the law; therefore, it is unclear if the research and analyses to identify beneficial owners shall be deemed as 'scientific work' or constitutes a breach to personal information.
- Public hearings and discussions that are ensured and mandatory prior to making any decisions related to the general public pursuant to the Law on General Administrative Law, the Law on Public Hearing and the Law on Legislations are not implemented by the government. Seven laws were passed by the Parliament between 2021 and 2024 without preliminary study and public discussions.<sup>210</sup>
- Information such as the decisions, financial disclosure, and procurement from both state organizations and SOEs was not accessible to the public and a mandatory public engagement in administrative decision-making or legislative development was missing during the implementation of the Law on Preventing and Protection from Coronavirus /COVID-19/ Pandemic and Elimination of Economic and Social Negative Impacts.<sup>211</sup>

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<sup>210</sup> D-Parliament, [www.d-parliament.mn](http://www.d-parliament.mn), accessed 2<sup>nd</sup> May 2024.

<sup>211</sup> Unified Legal Information System, Law on Preventing and Protection from Coronavirus /COVID-19/ Pandemic and Elimination of Economic and Social Negative Impacts 2020, <https://legalinfo.mn/mn/detail?lawId=16230997848051>, accessed on 1<sup>st</sup> July 2024.

- The IAAC only publishes the extracted and condensed version of asset and income declarations. Civil society organizations and the media have no access to the full version.
- There have been several concerning instances of government restrictions and pressure on NGO operations.

#### 4.1.10 Art. 11 – Judiciary and Prosecution Services

The independence of the judiciary is guaranteed in the Constitution (Art. 49) and the Law on Courts of Mongolia.<sup>212</sup> Courts shall be funded by the state and the state shall provide economic guarantees to the operations of courts. Measures to enhance judicial integrity and ethics through various training is defined in the National Anti-Corruption Strategy.

Until the adoption of the new Law on Courts, ethics of judges were regulated pursuant to the Code of Ethics, adopted in 2014 by the Board of the Judicial Committee of the Bar Association. The Code was developed based on the Bangalore Principles of Judicial Conduct,<sup>213</sup> defining most of the principles thereto. The Ethics Committee received complaints from citizens, lawyers, researchers and other judges on ethical violations and developed reviews, recommendations and advices while taking disciplinary actions for those, whose misbehavior or ethical standard breach was confirmed.<sup>214</sup> However, the Code of Ethics of Judges was annulled in relation to the adoption of the new Law on Courts of Mongolia (Law on Courts) in 2021 where the judicial ethics is rarely mentioned. According to the Law on Courts, a ‘condition’ to be ethical is ‘imposed’ to judges (Art.31. Conditions and Requirements to Judges) and the selection of judges shall consist of legal knowledge, professional qualifications, and ethics and moral tests, the latter of which shall consist of 30% of the total score and be assessed by text questionnaires. Except for the oath of the judges containing a statement of being ‘ethical’ in performing one’s duty, there is no other ethical standards for judges. The Concept of the Law on Courts does not have any justifications why the judicial ethics code was abolished.

The IAAC conducts a training on overall applicability of the Law on Anti-Corruption, the Law on Conflict of Interest and filing asset and income declarations based on their pre-approved annual action plan. The office had 85 trainings in 2021, 2022 and 2023 on capacity building on laws, writing decisions on accusation, objections, restitution and confiscation of assets, imposing limitations, asset recovery, anti-money laundering, environmental crimes, economic crimes and ethical standards were

<sup>212</sup> Unified Legal Information System, Law on Courts of Mongolia 2021, <https://legalinfo.mn/mn/detail?lawId=16106892006021>, accessed on 16<sup>th</sup> May 2024.

<sup>213</sup> UNODC, The Bangalore Principles of Judicial Conduct, 2002 [http://www.unodc.org/pdf/crime/corruption/judicial\\_group/Bangalore\\_principles.pdf](http://www.unodc.org/pdf/crime/corruption/judicial_group/Bangalore_principles.pdf).

<sup>214</sup> Asia Foundation and the General Judicial Council 2018, Judicial Ethics in Mongolia, [https://www.judcouncil.mn/file/research/2\\_%D0%90%D0%B2%D0%B8%D0%BB%D0%B3%D1%8B%D0%BD\\_%D0%B4%D0%B0%D0%B3%D0%BD%D0%B0%D1%81%D0%B0%D0%BD\\_%D1%88%D2%AF%D2%AF%D1%85%D1%82%D1%8D%D0%B9\\_%D1%85%D0%BE%D0%BB%D0%B1%D0%BE%D0%BE%D1%82%D0%BE%D0%B9\\_%D0%B1%D0%BE%D0%B4%D0%BB%D0%BE%D0%B3%D1%8B%D0%BD\\_%D1%81%D1%83%D0%B4%D0%B0%D0%BB%D0%B3%D0%B0%D0%B0\\_docx.pdf](https://www.judcouncil.mn/file/research/2_%D0%90%D0%B2%D0%B8%D0%BB%D0%B3%D1%8B%D0%BD_%D0%B4%D0%B0%D0%B3%D0%BD%D0%B0%D1%81%D0%B0%D0%BD_%D1%88%D2%AF%D2%AF%D1%85%D1%82%D1%8D%D0%B9_%D1%85%D0%BE%D0%BB%D0%B1%D0%BE%D0%BE%D1%82%D0%BE%D0%B9_%D0%B1%D0%BE%D0%B4%D0%BB%D0%BE%D0%B3%D1%8B%D0%BD_%D1%81%D1%83%D0%B4%D0%B0%D0%BB%D0%B3%D0%B0%D0%B0_docx.pdf), accessed on 30<sup>th</sup> July 2024.

organized for both new comers and prosecutors.<sup>215</sup> Other training on ethics or rule of law is limited upon request. Ethics training is not conducted on international ethical standards but, rather on introduction of applicable laws, team work, stipulations of the Code of Ethics. Human rights' training is provided by international organizations' funded projects taught by domestic consultants. The action plan of the organization on training of officials lacks ethics training by competent civil society organizations. The projects implemented on human rights focused on revision of the internal policies and procedures to incorporate human rights and gender-related clauses. Overall, prosecutors' Code of Ethics has not been revised or discussed after the adoption even after the COVID-19 and training on ethics, compliance, rule of law and human rights is insufficient.

The General Judiciary Council shall be operated for the purpose of ensuring integrity and preserving the independence of courts. The General Judiciary Council shall not intervene in adjudication process of the court. It has a duty to select judges from lawyers, protect judges' rights and lawful interests and ensure independence, organize exams for selection of judges, introduce the appeal courts judge's selection and exams' results to the Parliament and propose the names to the President for an approval. While 5 members of the General Judiciary Council shall be selected amongst the judges, other 5 judges are nominated and selected openly. A report on independence of judges shall be presented to the Supreme Court of Mongolia by the General Judiciary Council.

The Judicial Disciplinary Committee in charge of suspending and dismissing judges from their positions and imposing other disciplinary sanctions shall 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. Art. 49-6, Chapter Four). According to the Law on Courts, revised and adopted in 2023, all judges' meetings shall be organized bi-annually and shall select and remove anonymously the members of the Judicial Disciplinary Committee. Such Committee shall be in charge of reviewing and a suspension of a judge in the event if a judge has been involved in a criminal case upon receiving the proposal from the relevant authority. The decision of a Committee shall be introduced to the General Judiciary Committee. It also has a right to restore the status of a judge if the above conditions have been eliminated. The selection process of judges is based on examinations. Ethics standards are not a priority criterion and are only mentioned once in the Law on Courts, where the selection, integrity and accountability of judges are referred to. Due diligence is not mandatory prior to appointment.

Judges shall record an 'Influence Statement' pursuant to the Law on Court (Art.45) and record all attempts of influences during the adjudication of a case. The Judicial General Council has adopted the form of a statement by the Second Enclosure to Resolution 49 of 2021.

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<sup>215</sup> IAAC, Annual Report 2021, 2022, 2023, [https://iaac.mn/posts?category\\_id=13945b](https://iaac.mn/posts?category_id=13945b), accessed on 11<sup>th</sup> May 2024.

The Prosecutors' Code of Ethics was adopted by the President of Mongolia in 2018.<sup>216</sup> According to the same decree, the President adopted the Procedure on Ethics Council of prosecutors. Accordingly, the Chief Prosecutor has adopted by a decree A/18 of 2018 the updated composition of the Prosecutors' Ethics Council with 8 members. The Council shall review ethical standard breaches of prosecutors. The annual report of the General Prosecutor's Authority is open to public on its website. According to the annual report, public social media posts made in relation to the prosecutors had been inspected, and correction measures were taken by publicized responses stating that the posts were 'fake news'. In discussions on the integrity of the General Prosecutors' Authority and its branches in the capital city, districts and the countryside, reports of the office generally respond to public opinions, statements or social media posts to protect its own reputation. This process is considered as unproductive, and instead the office should focus efforts on increasing public trust through public and officials' awareness raising and training.

Public officials are prohibited from accepting gifts in the performance of their official duties (Art. 16, Conflicts of Interest Law) and this provision applies to prosecutors as they are public special service officials. 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 works approved by international conventions or a Government procedure, teaching, academic works or research and analysis, and other works that are not in conflict with the current job if a permission is obtained from the superior (Art. 20; Art.18.5).

Pursuant to the Anti-Corruption Law (Art.10.1) and the Conflict of Interest Law (Art.10.1), the Standing Committee on Legislations of the Parliament shall adopt the list of public officials' positions to file the asset and income declaration to the IAAC. While the Anti-Corruption Law defines regulations on asset and income declarations, the Conflict of Interest Law defines procedures on personal interest declarations of reporting individuals who are listed in the "List of Officials to Provide Statement of Private Interest and Declaration of Asset and Income".<sup>217</sup> Forms of declarations are adopted by the Chief Commissioner of the IAAC together with the National Statistical Committee.

Judges, prosecutors, police officers and central and local administrative officials are obliged to immediately report to the IAAC any corruption-related information obtained while performing their official duties. There is no specific code of conduct for the judiciary. The Law on Courts contains detailed regulations on the prevention of conflicts of interest. Judicial ethics must be reviewed upon the selection of judges by test scoring (total 100%), 70% of the selection assessment by test is based on professional qualifications, professional capacity and knowledge on laws and the remaining 30% is based on oral test. Actions for which a disciplinary measure shall be taken by the Judicial Disciplinary Committee are listed in the Article 50 of the Law on

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<sup>216</sup> Unified Legal Information System, Prosecutors' Code of Ethics Decree 10 of 2028, <https://legalinfo.mn/mn/detail?lawId=16389840697621>.

<sup>217</sup> List of Public Officials to File Asset and Income Declarations 2024, Resolution 05, Enclosure 10, Standing Committee on Legislations of the Parliament, [https://cdn.greensoft.mn/uploads/users/3172/files/10\\_MG\\_jagsaalt.pdf](https://cdn.greensoft.mn/uploads/users/3172/files/10_MG_jagsaalt.pdf), accessed on 25<sup>th</sup> February 2024.

Courts. Although, key ethical breaches are listed thereto together with the disciplinary measures to a) closed warning, b) open warning, c) reduction of a salary up to 20 percent for up to 6 months; d) suspension for up to 3 months and requirement to attend training; and e) removal from office, recent cases have arisen in relation to potential ethical misbehavior creating conflict of interest that is not listed in the Law and the Law does not contain any open space to discuss and review ethical misbehavior other than that listed in the Law. The Judicial Disciplinary Committee has not reviewed the cases under discussion which are affecting the court's reputation and independence of courts negatively, which are as follows:

#### Case 1:

On February 11<sup>th</sup> of 2024, the Mongolian Supreme Court and other courts' judges visited the house of the Speaker of the Parliament during the Lunar New Year celebration to pay respect to the Speaker. It is a tradition to visit family elderly during the New Year but, the state also organizes a 'State Ritual to Show Respect' at the government palace where the public officials pay respect to the highest-level appointees such as the President, the Prime Minister or the Speaker. In addition, it is tradition to give presents to all visitors of the house when they leave the house. However, Mongolia has adopted the Law on Reservation limiting extra expenditure of all state bodies to save public funds. Accordingly, the State Ritual was not organized at the government palace.

After the news on the media and criticism by the public,<sup>218</sup> a judge<sup>219</sup> posted on their social media that judicial integrity was not breached and, the purpose of the visit was to respect the tradition and to discuss certain issues of inventories of the court houses. A lawyer<sup>220</sup> filed an inquiry on February 28<sup>th</sup> of 2024 to the Constitutional Court of Mongolia demanding a detailed clarification on whether the state budget was spent for the celebration at the Speaker's house, if any official record had been registered at the Secretariat of the Parliament about such a meeting. He says if it was a State organized event, then the Law on Reservation is breached and, if the event was organized from the personal expenses of the Speaker, then the Law on Courts that specifically defines the judges shall prohibit any personal relations that may affect negatively in court's reputation and case proceedings (Art.50.1.19) is breached. He also filed a complaint to the Judicial Disciplinary Committee for violation of the Law on Courts and a potential ethics standard breach and conflict of interest of judges. No response or an official comment was made, neither by the Secretariat of the Parliament, nor from the Judicial Disciplinary Committee. There was no response from any of the bodies.

#### Case 2:

A person filed a complaint to the Judicial Disciplinary Committee on a judge's potential conflict of interest. The Judicial Disciplinary Committee of the Court has prohibited the complainant to participate in the discussion of a case according to the Law on Courts.

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<sup>218</sup> X, Dr. B.Gunbileg's post on 16<sup>th</sup> May 2024, <https://x.com/gunbilegblbtr/status/1791093055455465509?s=12&t=EcfagP7bHs5tTVdTINGSeQ>, accessed 2<sup>nd</sup> May 2024.

<sup>219</sup> Facebook, D.Munkhtuya, Supreme Court Judge, Facebook post (deleted by author), date 29<sup>th</sup> February 2024, accessed 2<sup>nd</sup> May 2024.

<sup>220</sup> Facebook, Dr. B.Gunbileg, Lawyer, 22<sup>nd</sup> February 2024 and 28<sup>th</sup> February 2024, <https://www.facebook.com/100009575226812/posts/3604529876542818/?mibextid=WC7FNe&rdid=4td7uN814HxJgHvg>, accessed 2<sup>nd</sup> May 2024.

The Law does not contain any regulations on the participation of a third party in a complaint discussion. Upon denial of the complaint by the Judicial Disciplinary Committee, the complainant appealed the decision; however, as the Law says in its clause 101.5 'Only a judge in question and his/her authorized representative shall be considered as participants in the disciplinary case' and clause 112.6 says 'within 14 days after the receipt of the Judicial Disciplinary Committee's decision, the participant of the case may appeal' therefore the appeal was not received by the Judicial Disciplinary Committee.<sup>221</sup>

### **Good practices**

- The independence of the judiciary is guaranteed in the Constitution and the Law on Courts of Mongolia.
- The General Judiciary Council operates for the purposes of ensuring integrity and preserving the independence of courts, and is mandated not to intervene in adjudication processes of the court.
- Public officials are prohibited from accepting gifts in the performance of their official duties according to the Conflicts of Interest Law, though this is not always followed.
- Both prosecutors and judges must file the asset and income declarations to the IAAC within the defined timeline by the Law on Conflict of Interest.
- Measures to enhance judicial integrity and ethics through various training is defined in the National Anti-Corruption Strategy.

### **Deficiencies**

- There is no specific code of conduct for the judiciary. The Code of Ethics of Judges, which followed international best practice standards was annulled in 2021 upon adoption of the new version of the Law on Courts of Mongolia.
- Although, key ethical breaches are listed thereto together with the disciplinary measures, recent cases have arisen in relation to potential ethical misbehavior creating a conflict of interest that is not listed in the Law on Courts, and the Law does not leave space to discuss and review ethical misbehavior other than actions specified under the Law.
- Ethics and human rights training is not conducted on international ethical standards, but rather on the introduction of applicable laws and a team work.
- The selection process of judges is based on examinations. Ethics standards are not a priority criterion and are mentioned only once in the Law on Courts, where the selection, integrity and accountability of judges are referred to. Due diligence is not mandatory prior to the appointment of judges.
- There is no gift and entertainment record by public offices and the Civil Service Council, nor by the IAAC, and the law is not implemented in practice.
- No meeting track record is kept by judges for the public to review and monitor judges' meetings with high-level officials, their topic of discussions and the duration and place of these meetings.
- The Ethics Council of the General Prosecutor's Authority shall not review ethics breaches related to complaints made by the parties to the case proceedings,

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<sup>221</sup> Facebook, Mongolian Lawyers' Discussion blog 12<sup>th</sup> March 2024, [https://www.facebook.com/groups/562757427106409/?ref=share&mibextid=K35XfP&rdid=jkdAGfoQEgSyoLSX&share\\_url=https%3A%2F%2Fwww.facebook.com%2Fshare%2FgotQ5Wxt22Zf1VFH%2F%3Fmibextid%3DK35XfP](https://www.facebook.com/groups/562757427106409/?ref=share&mibextid=K35XfP&rdid=jkdAGfoQEgSyoLSX&share_url=https%3A%2F%2Fwww.facebook.com%2Fshare%2FgotQ5Wxt22Zf1VFH%2F%3Fmibextid%3DK35XfP), accessed 2<sup>nd</sup> May 2024.

officials, citizens or legal entities of the case. Such complaints shall be reviewed and investigated by the Inspection and Internal Security unit. According to the Ethics Council procedure, a standard on ethics is listed and there is no explicit process identified on how to measure non-compliance.

- There is no information or record on ethics standards implementation nor on breaches on the Prosecutor's office website. Understanding about ethics and human rights is limited to reports of responses to public opinions or statements or social media posts to protect the office's reputation.
- Prosecutors file an 'Influence Statement' however, general information of such filing of statements does not exist and no information on them is included in annual reports. The meeting track record is not kept by prosecutors thus, meetings with high-level officials, their topic of discussions and duration and place of meetings remains unknown and unmonitored.

#### **4.1.11 Art. 12 – Private Sector Transparency**

The National Anti-Corruption Strategy adopted for 2023-2030 identified specific clauses to promote private sector transparency, governance, compliance and a corruption-free environment. It aims to ensure transparency of public information in relation to public-private-partnership decisions, activities, loans and guarantees, related and affiliated persons and legal entities and assessment and accountability and, on the other hand, it aims to promote ethics by legalizing a restriction on some key economic sectors' legal entities, such as mining, information technology, banking, media and petroleum import companies to give election contributions.<sup>222</sup>

According to the Company Law<sup>223</sup> adopted in 2011, all listed companies shall have a board and the board and board committees shall review the conflict of interest and major transactions and select and nominate an audit company, while the independent board directors shall ensure transparency of company's documents in accordance with laws and standards. Chapter 11 regulates the major transaction-related issues and Chapter 12 defines procedures for conflict of interest transactions. It ensured by the law for shareholders to request and receive any and all information and review financial and other documents (Art.5.11, Company Law) and may request them any time before, during and after the shareholders' meeting.

The Company Law clearly defines the rights of shareholders to receive and the board to give information to shareholders, obligations of the company to be transparent in terms of financial and activities' reporting, and listed or regulated companies' openness standards. The latest version of the Corporate Governance Codex<sup>224</sup> was adopted in 2022, incorporating changes related to transparency and accountability rules for all companies. The Codex requires compliance from listed companies in the Mongolian Stock Exchange, insurers, NBFIs, and investment management companies. It is not mandatory for closed companies. The Codex was developed

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<sup>222</sup> Unified Legal Information System, The National Anti-Corruption Strategy 2023, Goal Four, <https://legalinfo.mn/mn/detail?lawId=16760139781851>, accessed on 26<sup>th</sup> April 2024.

<sup>223</sup> Unified Legal Information System, Company Law 2011, <https://legalinfo.mn/mn/detail?lawId=310>, accessed 2<sup>nd</sup> May 2024.

<sup>224</sup> Financial Regulatory Commission, Corporate Governance Codex 2022, <http://www.frc.mn/resource/frc/Document/2022/04/12/nsfkmbj8aenmnhp8/Гарын%20авлага%20коде%20кц.pdf>, accessed 2<sup>nd</sup> May 2024.



based on G20/OECD Principles of Corporate Governance<sup>225</sup> (prior to the adoption of the latest revision in 2023). Chapter 5 of the Codex reflects principles of transparency of a company in financial information, disclosure, annual and other reports and activities' reports, salary and remunerations of high-level employees and board members, disclosure of code of ethics, risk and other policies of the company, and adopted a checklist for transparency related to board members, their education and experiences, mandate and duty, nomination and the selection procedure for a board member, information about board committees, and if an induction training was given to a board member upon first entrance.

The Law on Registration of Legal Entities and the Law on General State Registration requires both corporate and not-for-profit legal entities to register their beneficial owners from 1 January 2020 onward. All legal entities registered before such date had to re-file their beneficial ownership information by the date of implementation of the law. The beneficial owners' database is not open to the public, despite the requirement to be as stipulated in the law. Only legal owners' database is open. Furthermore, there are different definitions of 'Beneficial Owner' in the AML/CTF Law<sup>226</sup> (Art. 3.1), the General Taxation Law<sup>227</sup> (Art. 6.1.48), the Banking Law<sup>228</sup> (Art. 3.1.17), the Securities Market Law<sup>229</sup> (Art. 4.1.26), not in compliance with the FATF Recommendations<sup>230</sup> (See 4.2.1 Art. 52 and 58 – Anti-Money Laundering of 4.2. Chapter V).

Transparency International's assessment of the Mongolia National Chamber of Commerce and Industry members top companies of Mongolia revealed that 59 percent of top companies do not have anti-corruption policy, 30.4 percent with no code of ethics, 75.5 percent with do not assess their corruption, embezzlement, fraud risks, 56 percent have not established a grievance or whistleblowing mechanisms, 62.7 percent have not defined relations to regulate in the event of conflict of interest.<sup>231</sup> 48 percent of high-level, 38 percent of mid-level, and 20 percent of junior-level employees of the companies have attended training on ethics.<sup>232</sup>

Executive managers, including the board members, chief executive officer, members of the executive team, chief financial officers and general accountant, board secretary

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<sup>225</sup> OECD, G20/OECD Principles of Corporate Governance 2019, <https://www.oecd.org/corporate/principles-corporate-governance/>, accessed 2<sup>nd</sup> May 2024.

<sup>226</sup> Unified Legal Information System, Law on Anti-Money Laundering and Counter Terrorism Financing 2006, <https://legalinfo.mn/mn/detail?lawId=9253>, accessed on 24<sup>th</sup> May 2024.

<sup>227</sup> Unified Legal Information System, General Taxation Law 2019, <https://legalinfo.mn/mn/detail?lawId=14403>, accessed on 20<sup>th</sup> March 2024.

<sup>228</sup> Unified Legal Information System, Banking Law 2010, <https://legalinfo.mn/mn/detail?lawId=108>, accessed on 20<sup>th</sup> March 2024.

<sup>229</sup> Unified Legal Information System, Securities Market Law 2013, <https://legalinfo.mn/mn/detail?lawId=9243>, accessed on 1<sup>st</sup> March 2024.

<sup>230</sup> FATF, Beneficial Ownership of Legal Persons 2023, <https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/Guidance-Beneficial-Ownership-Legal-Persons.pdf.coredownload.pdf>, accessed 26<sup>th</sup> May 2024.

<sup>231</sup> Sonin.mn, Corruption affects every part of a company, Assessment introduction 2021, [https://sonin.mn/news/crime/124304?fbclid=IwZXh0bgNhZW0CMTEAAR341GUmTUbSpJGQNM4XRslDX79qSt9OXWVNHkafz1SMwjXF3Jww5TjblfA\\_aem\\_T0WYfKv38ER78JVpBsL0kq](https://sonin.mn/news/crime/124304?fbclid=IwZXh0bgNhZW0CMTEAAR341GUmTUbSpJGQNM4XRslDX79qSt9OXWVNHkafz1SMwjXF3Jww5TjblfA_aem_T0WYfKv38ER78JVpBsL0kq), accessed on 17<sup>th</sup> July 2024.

<sup>232</sup> Interview 2021, Business ethics center of the National Chamber of Commerce and Industry, [https://sonin.mn/news/crime/124304?fbclid=IwZXh0bgNhZW0CMTEAAR30RkGc2D-clqZ-g9ULRAYYY1b2biMyd2EQRpBO-rQ1KzESlt0cz6bC-J58\\_aem\\_ZmFrZWR1bW15MTZieXRlcw](https://sonin.mn/news/crime/124304?fbclid=IwZXh0bgNhZW0CMTEAAR30RkGc2D-clqZ-g9ULRAYYY1b2biMyd2EQRpBO-rQ1KzESlt0cz6bC-J58_aem_ZmFrZWR1bW15MTZieXRlcw), accessed 26<sup>th</sup> May 2024.

and other officials who are in charge of decision-making or negotiating deals and contracts, are considered as the ‘authorized officials’ of the legal entity according to the Company Law (Art 84). Such positions shall be mentioned in the Charter of a company. Executive managers of enterprises and organizations are responsible for managing and implementing accounting practices (Art. 18, 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.

The main sector of corruption risk is the extractive sector. Mongolia has been party to the Extractive Industry Transparency Initiatives (EITI) since 2006<sup>233</sup> and was a top country complying with the transparency standards of the EITI in 2018.<sup>234</sup> Extractive industry companies report their activities and beneficial owners in EITI platform <https://ereporting.eitimongolia.mn/> annually. The draft Law on Extractive Industry Transparency was under discussion by the Parliament in 2017, 2018 and twice since 2021 but has now been postponed by the Parliament.<sup>235</sup> 86 percent of listed companies failed to post their 2022 annual reports on their websites as defined in the laws and the Codex, with no penalties imposed by regulators.<sup>236</sup>

### Good practices

- The National Anti-Corruption Strategy adopted for 2023-2030 identified specific clauses to promote private sector transparency, governance, compliance and a corruption-free environment.
- The revised latest version of the Corporate Governance Codex was adopted in 2022, incorporating changes related to transparency and accountability rules for all companies, except closed companies.
- Mongolia is a party to the Extractive Industry Transparency Initiatives (EITI) since 2006 and extractive industry companies report their activities and beneficial owners in EITI platform <https://ereporting.eitimongolia.mn/> annually.
- The Company Law requires the company to register any decisions made by the shareholders or board of directors within 15 days at the State Registration Office. Accordingly, companies are required to register changes occurred in their beneficial ownership at the state registration of the company each time, within 15 calendar days.
- The Law on Registration of Legal Entities and the Law on General State Registration requires both corporate and not-for-profit legal entities to register their beneficial owners from 1 January 2020 onward.

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<sup>233</sup> EITI Mongolia, <https://www.eitimongolia.mn/p/4>, accessed on 24<sup>th</sup> May 2024.

<sup>234</sup> EITI Mongolia, Validation Report 2018, [https://resource4.sodonsolution.org/eitimongolia/File/2021/02/02/myowurt43msrpmze/Mongolia\\_validation\\_report\\_2018\\_mn.pdf](https://resource4.sodonsolution.org/eitimongolia/File/2021/02/02/myowurt43msrpmze/Mongolia_validation_report_2018_mn.pdf), accessed on 24<sup>th</sup> May 2024.

<sup>235</sup> Ministry of Mining and Heavy Industry, Draft Law on Extractive Industry Transparency, Ministry of Mining and Heavy Industry, <https://mmhi.gov.mn/2020/09/09/4734/>, accessed on 7<sup>th</sup> May 2024.

<sup>236</sup> Financial Regulatory Committee, 2023 Report, <http://frc.mn/resources/Images/Document/202403/PIQPs/AR2023.pdf>, accessed on 24<sup>th</sup> May 2024.

## Deficiencies

- There are several laws in Mongolia that require beneficial ownership registration and mandatory reporting. While the registration law refers to the AML/CTF Law for the 'beneficial ownership' definition, this definition has a different meaning and threshold in the General Taxation Law. Such different definitions are not compliant with the FATF Recommendations.
- The beneficial owners' database is not open to the public despite the requirement stipulated in the law. Only the legal owners' database is open.
- The National Chamber of Commerce and Industry members – the top companies of Mongolia, have inadequate anti-corruption policies, codes of ethics, corruption risk assessments, embezzlement and fraud prevention methods, risk grievance or whistleblowing mechanisms, and conflict of interest policies. The training of junior-level employees of the companies is insufficient.
- There is no regulation disallowing tax deductibility of expenses that constitute bribes or other expenses in furtherance of corrupt conduct in any laws.
- A draft Law on Extractive Industry Transparency, the key sector of economy with a high level of conflict of interest, has been under discussion since 2017.
- There has been persistently insufficient reporting on the annual reports by listed companies throughout the years.

### 4.1.12 Art. 14 – Measures to Prevent Money-Laundering

Mongolia has a comprehensive domestic regulatory and supervisory regime for banks and other bodies susceptible to money-laundering such as NBFIs, licensed insurers, investment funds; investment management companies; licensed securities market entities; savings and credit cooperatives; real estate agents; notaries; lawyers; accountants and other financial management counsellors' virtual asset service providers; and loan service providers, including natural or legal persons that provide formal or informal services for the transmission of money or value. The Law on Anti-Money Laundering and Counter Terrorism Financing (AML/CTF Law)<sup>237</sup> allows and ensures all government bodies to collaborate in undertaking necessary measures, exchange of information and cooperation in terms of inspection, investigation, and oversight.<sup>238</sup>

The FIU was established in 2006 within the structure of the central bank of Mongolia and adopted the first in July 2006.<sup>239</sup> The revised AML/CTF Law was adopted in 2013,

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<sup>237</sup> Unified Legal Information System, Law on Anti-Money Laundering and Counter Terrorism Financing 2013, <https://legalinfo.mn/mn/detail?lawId=9242>, accessed on 24<sup>th</sup> May 2024.

<sup>238</sup> According to Article 19.1, the Central Bank of Mongolia shall ensure compliance with obligations of the AML/CTF Law by banks (Art. 4.1.1), the FRC shall ensure compliance with obligations by NBFIs, insurance companies and insurance licensed entities, investment funds, investment management companies, licensed securities market entities, savings and credit cooperatives, dealers of precious metals and precious stones, real estate agents and virtual asset service providers (Art. 4.1.2, 4.1.3, 4.1.4, 4.1.5, 4.1.6, 4.1.7, 4.1.8, and 4.1.10), and Mongolian Bar Association, Association of Advocates, Chamber of Notaries, Mongolian Institute of Certified Public Accountants, Financial Information Unit and other authorized bodies issuing and monitoring the respective permits shall ensure compliance with obligations by notaries, lawyers, accountants and other financial management counsellors (Art.4.1.9) respectively, and ensure implementation of the Law according to the risk-based approach.

<sup>239</sup> Unified Legal Information System, Law on Anti-Money Laundering and Counter Terrorism Financing 2006, <https://legalinfo.mn/mn/detail?lawId=9253>, accessed on 24<sup>th</sup> May 2024.

and amended from time-to-time to incorporate necessary changes. The core functions of FIU (Art.18, AML/CTF Law) is to receive Suspicious Transaction Reports (STRs) from bodies listed in Article 4.1, set up a database on STRs, Cash Transaction Reports (CTRs), Foreign Settlement Transaction Reports (FSTRs) and Virtual Asset Transaction Report (VATRs), analyze them, and if there are sufficient grounds to suspect that the given transaction had the purpose of money laundering or terrorism financing, it transfers the case to competent law enforcement authorities in charge of anti-money laundering or countering terrorism financing. Furthermore, the Financial Intelligence Unit (FIU) has duties to develop and assist reporting entities with methodologies to prevent from money-laundering or terrorism financing risks, ensuring compliance with international standards, organizing training and awareness raising activities, developing statistics, conducting oversights and monitoring of applicable legislative implementations. One of the key roles of the FIU is to develop the National Risk Assessment and other domestic policies and programs based on such risk assessment. It was adopted in 2020.

A National Committee with the function to develop a national policy and program on AML/CTF was established by the Government in 2017<sup>240</sup> and consists of representatives from Prosecutor's Agency, the Central Bank of Mongolia, FRC, the state central administrative bodies in charge of finance, legal and foreign affairs, authorized agencies of law enforcement and countering-terrorism, taxation and customs authorities, and FIU.

In order to improve the amount, quality and time effectiveness of reports received and financial analysis conducted, the goAML software developed by the UNODC was officially introduced to the operations of FIU-Mongolia since July 1, 2022. With the introduction of the software, the "Procedures for submitting information to the Financial Information Unit" was updated and approved by the Decree No. A-171 of the Governor of the Bank of Mongolia dated June 7, 2022, and the necessary guidelines were developed and delivered to the reporting entities. Entities from all obligated reporting sectors have been registered and are submitting suspicious, cash and foreign settlement transaction reports using goAML software.

The main objective of the National Anti-Money Laundering Program<sup>241</sup> for 2022-2030 is to comply with the FATF Recommendations and improve national capacity to fight with money-laundering and terrorism financing. The previous National Anti-Money Laundering Program for 2017-2020 was assessed the overall achievement of implementation is 97 percent.<sup>242</sup> The National Strategy sets 8 strategic objectives in line with the thematic goals identified by the FATF and aims to further strengthen Mongolia's AML/CFT/CPF framework. It sets 8 strategic objectives in line with the thematic goals identified by the FATF and aims to further strengthen Mongolia's AML/CFT/CPF framework by addressing the deficiencies stated in Mongolia's MER and FUR as well as effectively implementing the technical compliance and

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<sup>240</sup> Mongolbank Financial Information Unit, Decree 70 of 2017, the Prime Minister of Mongolia, <https://fiu.mongolbank.mn/en/p/2100>, accessed on 8<sup>th</sup> April 2024.

<sup>241</sup> Unified Legal Information System, National Anti-Money Laundering Program, Government of Mongolia, Resolution 265 of 2022, <https://legalinfo.mn/mn/detail?lawId=16531127083371&showType=1>, accessed on 12<sup>th</sup> July 2024.

<sup>242</sup> Mongolbank Financial Information Unit, <https://fiu.mongolbank.mn/mn/p/2400>, accessed on 14 March 2024.

effectiveness requirements of the FATF 40 Recommendations and 11 Immediate Outcomes.

Money laundering is classified as an ‘Economic Crime’ in the Criminal Code and investigated by the police. The IAAC may investigate money-laundering cases only if the case was detected during the investigation of corruption cases. The Economic Crime Department of the General Police Agency consists of the Anti-Money Laundering, Financial Crimes and Investigation divisions, Economic Security Department of the General Intelligence Agency and the Investigation Department of the IAAC are all in charge of money-laundering cases’ investigation or inspection and monitoring.

Order A/11 of the Head of the National Police Agency (NPA) passed on 11 January 2018,<sup>243</sup> restructuring the economic crime units and transforming the Economic Crime Division into the Economic Crime Department. Organizational reform resulted in increased performance on tackling financial crimes (Art. 22 AML/CTF Law<sup>244</sup>). Five vacancies of financial experts were added to the Countering money laundering division. The Department on Case Registration and Investigation Oversight of the General Prosecutor’s Agency carries out oversight on money-laundering cases of the police and the IAAC. The 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 on criminal trends and implements risk assessment on terrorism financing. Cash transactions on social media are vulnerable to various risks,<sup>245</sup> as over 2,1 million social media users are unsupervised and cash transactions through individual accounts are predominantly conducted for sale and purchase, or other purposes, via social media.

The Asia Pacific Group (APG)<sup>246</sup> on Money Laundering of the FATF has conducted the Mutual Evaluation for Mongolia’s anti-money laundering regime three times, in 2010, 2012 and 2016, respectively. Mongolia was on FATF’s ‘grey list’ in 2011, 2013 and 2019. Mongolia was on enhanced follow-up as of the February 2022 and is rated ‘Complaint’ or ‘Largely Compliant’ under the Follow-Up Report in all 40 Recommendations of the FATF.

While the authors broadly agree with the defined higher risk of NRA, reports suggest that 1. Mongolia faces corruption challenges particularly in relation to those sectors that obtain licenses from the government agencies such as mineral resource (Mongolia’s largest sector in term of percentage of GDP), land management, real estate, and financial sectors; 2. predicate offences are directly related to the fact that not only higher-risk sectors are vulnerable to corruption; and 3. the anti-corruption measures of the country are far from producing sustainable results because of

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<sup>243</sup> Hard copy, not available online.

<sup>244</sup> Unified Legal Information System, AML/CTF Law 2013, <https://legalinfo.mn/mn/detail?lawId=9242>, accessed on 5<sup>th</sup> February 2024.

<sup>245</sup> Unified Legal Information System, Ministry of Digital Development, Concept Paper, Law on Protection of Public Rights on Social Media (annulled by the President of Mongolia) in 2022, <https://legalinfo.mn/mn/detail?lawId=16758861629711>, accessed on 8<sup>th</sup> April 2024.

<sup>246</sup> Mongolia is a member of the Asia Pacific Group, the regional body of the Financial Actions Task Force, since 2004; Mongolbank Financial Information Unit, <https://fiu.mongolbank.mn/mn/p/3300>, accessed on 8<sup>th</sup> April 2024.

insufficiencies in sectoral risk assessments. The FATF Recommendations suggest identifying higher risk 'activities' for which enhanced or specific measures are required, all such measures must be applied, although the extent of such measures may vary according to the specific level of risk. This means that a country should identify risk variables based on supporting findings relating to risk. This process of generalizing the level of risks in the Mongolian NRA the same as sectors identified as risky in the FATF recommendations entailed further undesired consequences in Mongolia, specifically in regulating of Non-Profit Organizations (NPOs). Threats to regulate the not-for-profit organizations claiming that overall, this sector has high-risks for money-laundering is no substantiated by the NRA nor any other risk assessments in the country. Several attempts to shrink the civic space by developing the draft Law on Funds and the draft Law on Unions, without tailored assessment, are a serious misuse of FATF standards outside the mutual evaluation cycle to suppress the NGOs in Mongolia. This process was mainly based on NRA 2020 which identified the NPO sector as vulnerable to ML/TF risks because FATF has an independent recommendation on preventing NPOs from ML/TF risks. For now, such attempts have been suspended however, NPOs cautioned that it may resume.

**Note:** It is crucial to examine and comprehend the key concept of predicate crimes of the country. As defined by FATF in Mutual Evaluation Report 2017, the predicate crimes in Mongolia are: a. fraud, b. environmental crimes, c. tax evasion and d. corruption. In this context, money-laundering is a subsequent crime of corruption-crimes. To prevent money-laundering risks, one of the top commercial banks<sup>247</sup> has conducted an internal assessment of potential cases in relation to predicate crimes and illegal businesses in Mongolia. It is necessary to understand the nature and context of the risk that are unique to a country and extent of the money laundering and terrorist financing risks, and the circumstances of the country, which affect the materiality of different recommendations as defined in the Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CTF Systems, updated in 2019.<sup>248</sup>

In the banking sector, one of the predominant challenges is verifying the customers. Over 365000 citizens have the same first and last names<sup>249</sup> thus, it is difficult to identify Politically Exposed Persons (PEPs) through citizens identification number, of which Mongolia does not have a separate database for the private sector to use. Banks attempt to generate their own database on beneficial owners and PEPs, to verify customer information based on external and open sources.

FIU and FRC have developed manuals to prevent AML/CTF risks of: a. non-banking financial sectors; b. insurance sector; c. securities market; d. real estate mediation sector; e. precious metals and precious stones dealing sector; and f. savings and credit cooperatives. FRC has adopted a Guideline on Identification of a PEPs for reporting entities but no guidelines for investment funds, virtual asset service providers and loan service providers. The FRC has developed a handbook on money mules to

<sup>247</sup> Anonymous interview on 29 Feb, 2024.

<sup>248</sup> FATF, Page 7, Risk and Context, FATF, Methodology for Assessing Compliance with the FATF Recommendations and the Effectiveness of AML/CTF Systems 2023, <https://www.fatf-gafi.org/en/publications/Mutualevaluations/Fatf-methodology.html>, accessed on 20<sup>th</sup> May 2024.

<sup>249</sup> 1212, National Statistical Office, Nationwide, 2 to 72 people possess same first and last names, <https://www2.1212.mn/sonirkholtoi/GivenName/>, accessed on 3<sup>rd</sup> March 2024.

raise awareness of reporting entities; however, there is no regulation related to hawala or money mules or asset mules, which is becoming predominant in Mongolia in the practice of the banking sector, and approved 8 regulations<sup>250</sup> related to the registration process and other operational and supervisory requirements on Virtual Asset Service Providers (VASPs)<sup>251</sup> in 2022.

The AML/CTF Law<sup>252</sup> states in Article 3.1.1 that 'money laundering' shall mean the acquisition, possession or use of assets, money and income knowing that they are proceeds of crime, or transfer or conversion of such proceeds to conceal their illicit origins and to assist entities involved in committing crimes to avoid legal liabilities, or disguise their true natures, origins, locations, administration, ownership, and property rights. Accordingly, the Criminal Code<sup>253</sup> defines in the Article 18.6 that whoever received, possessed, used the asset, money or income knowing that they are proceeds of crime or transfer or conversion of such proceeds to conceal their illicit origins, assisted individuals involved in committing crimes to avoid legal liabilities, or disguise their true natures, origins, locations, administration, ownership, and property rights shall be punishable by limitation of the right to free travel for a term from six months to one year, or imprisonment for a term from six months to one year. According to both definitions, only the people who are physically involved in money laundering can be punished, but not the people who are behind the curtain, instructing or ultimately benefiting from the crimes. Furthermore, laws do not require identification of the ultimate beneficial owners of crime proceeds.

**Table 6: Money laundering and illicit enrichment crimes with court decisions**

	2020	2021	2022	2023
Money laundering	5	3	4	8
Illicit enrichment	7	10	9	24

Source: IAAC<sup>254</sup>

Although, the definition did not cause a major problem during the Mutual Evaluation of FATF,<sup>255</sup> according to the files of court cases of crimes related to public officials,<sup>256</sup> there is no evidence of punishment of a person who has instructed money laundering

<sup>250</sup> Financial Regulatory Commission, <http://frc.mn/muta/#/doc/decree:id=573>, accessed on 14<sup>th</sup> July 2024.

<sup>251</sup> Mongolbank Financial Information Unit, Decree No.A-110 of the Governor of Bank of Mongolia on April 14, 2022, Decree No. A-26 of the Governor of Bank of Mongolia on January 25, 2023 <https://fiu.mongolbank.mn/mn/p/4200>,

<sup>252</sup> Unified Legal Information System, AML/CTF Law 2013, <https://legalinfo.mn/mn/detail?lawId=9242>, accessed on 5<sup>th</sup> February 2024.

<sup>253</sup> Unified Legal Information System, Criminal Code 2015, <https://legalinfo.mn/mn/detail?lawId=103112>, accessed on 16<sup>th</sup> June 2024.

<sup>254</sup> IAAC, Annual report 2021, 2022, and 2023, <https://iaac.mn/post/151812> ; accessed on 8<sup>th</sup> March 2024.

<sup>255</sup> FATF, Mutual Evaluation of Mongolia, <https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mutualevaluationofmongolia.html>, accessed on 20<sup>th</sup> March 2024.

<sup>256</sup> Digital site on Courts' Decisions, <https://shuukh.mn/#>, accessed on 6<sup>th</sup> July 2024; IAAC, Compilation of court decision of crimes related to public officials 2011-2012, <https://iaac.mn/post/139261>, accessed on 6<sup>th</sup> July 2024; Compilation of court decision of crimes related to public officials 2013 (hard copy), Compilation of court decision of crimes related to public officials 2014, Part I (hard copy) and Part II (hard copy).

or tried as an ultimate beneficiary of crime proceeds. The number of cases finally resolved by the court is also insignificant compared to public perception<sup>257</sup> of crime existence. Money laundering is punishable from six months to one year as a main crime and if, the crime is an organized crime, then the sanctioning increases from five years to 12 years.

Identification and verification of the beneficial ownership and PEPs' information is burdensome for the private sector, which lacks assistance from the government as citizens' registration numbers are unattainable from open data. There is only one commercial data site available at [www.monpep.mn](http://www.monpep.mn); however, verification of information is difficult. The open database is a registration of only legal owners of legal entities, and the only source that reporting entities can rely on is the application form and the customer information procedure that occurs once every two years where the reporting entities ask if a customer is a PEP. However, filing false information in the banking application forms does not constitute any penalty to wrongdoers.

Commercial banks revised its customer's account contracts, products and services information and periodic news to its customers to raise awareness on money mules, revised internal training to prevent customers from being used by third parties and continue re-rating its risks and sending related SARs to the FIU. FIU Mongolia has cooperation MOUs with 21 other foreign countries' FIUs.

It is prohibited for a Mongolian or foreign citizen, or stateless person to enter or exit via the Mongolian border carrying physical precious metals and foreign currency in cash equivalent more than the monetary value of US\$5,800<sup>258</sup> (Art.15.4, AML/CTF Law) without a declaration. Mongolia has demonstrated that its declaration system is being implemented in all major border crossings<sup>259</sup>. The physical precious metal and foreign currency in cash up to the monetary value specified above can cross the Mongolian border by declaring them at customs (Art.15.5).

### **Good practices**

- The AML/CTF Law was adopted in 2013. Mongolia has a comprehensive domestic regulatory and supervisory regime for banks and other bodies susceptible to money-laundering, including all required sectors and bodies.
- Laws and regulations ensure the implementation of international regional bodies' recommendations and standards, support international cooperation, coordination with international law-enforcement bodies, extradition or exchange of criminals and organizing events and training, exchange of information and provide retrospective support.
- Mongolia has established the National Cooperation Council, consisting of representatives of the various competent national authorities, to organize the

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<sup>257</sup> TI-Mongolia, Survey conducted in November and December 2021; IAAC Integrity Assessment 2022, <https://iaac.mn/uploads/users/1279/files/Shudarga%20baidiin%20unelgee-2022%20on.pdf>, accessed on 27<sup>th</sup> June 2024.

<sup>258</sup> Mongolbank, Official Rate as of 1<sup>st</sup> January 2024 <https://www.mongolbank.mn/en/currency-rate>, accessed on 8<sup>th</sup> June 2024.

<sup>259</sup> FATF, Mutual Evaluation of Mongolia, <https://www.fatf-gafi.org/en/publications/Mutualevaluations/Mutualevaluationofmongolia.html>, accessed on 20<sup>th</sup> March 2024.



coordination of issues related to money-laundering and terrorism financing at the operational level.

- The National Committee, which organizes the coordination of anti-money laundering and countering terrorism financing activities, has been established.
- The FIU was established in 2006 within the structure of the central bank of Mongolia and has the rights and duties to receive STRs, CTRs, FSTRs, and VATRs reporting entities, assist them, set up a database and analyze them, develop effective policies and organize coordination among government, private and civil society sectors.
- Mongolia developed and adopted the National Risk Assessment in 2020.
- Mongolia has an Anti-Money Laundering National Program (AML National Program)<sup>260</sup> adopted by the Government in 2022.
- The General Police Department, General Prosecutor's Agency, General Intelligence Agency and IAAC all established an independent department or unit in charge of money-laundering cases' investigation or inspection and monitoring.
- Mongolia is rated 'Compliant' or 'Largely Compliant' under the Follow-Up Report in all 40 Recommendations of the FATF.
- The FIU of the Central Bank of Mongolia conducts on-site and off-site supervisions and delivers recommendations, guidelines, defines duties of responsible employees, and develops statistics solely or collectively with other regulators or law enforcement agencies.
- The FIU and FRC have developed manuals on AML/CFT supervision.
- Laws and regulations sufficiently ensure the implementation of international regional bodies' recommendations and standards.

## Deficiencies

- Mongolia is exposed to a range of money laundering threats and vulnerabilities such as higher risk predicate offences including fraud, environmental crimes, tax evasion, and corruption and moderate-risk threats include drug offences; smuggling; organized crime; crime against banking regulations; theft and burglary; and risk from foreign proceeds.
- Mongolia's National Risk Assessment has not identified the linkage between corruption crimes (predicate crime) and money-laundering (follow-up crime); or the level of risks' impact and mitigating actions specifically aimed at each risk.
- The National Risk Assessment has not identified the corruption-prone mineral sector as vulnerable; therefore, risks, leveling of risks and a risk mitigation plan does not exist for this sector.
- The FIU transfers transaction reports to the relevant authorities in charge of investigating and carrying out undercover operations, if there are sufficient grounds to suspect that the transaction had the purpose of money laundering or terrorism financing. Statistics about such transfer of transaction reports from FIU and investigations conducted accordingly are not open to the public.
- Identification and verification of the beneficial ownership and PEPs' information is burdensome for the private sector, without assistance from the government. Over 365000 citizens have the same first and last names thus, it is difficult to identify Politically Exposed Persons (PEPs) through citizens identification

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<sup>260</sup> Unified Legal Information System, AML National Program 2022-2030, <https://legalinfo.mn/mn/detail?lawId=16531127071581&type=3>, accessed on 16<sup>th</sup> March 2024.

number, of which Mongolia does not have a separate database for the private sector to use. Banks attempt to generate their own database on beneficial owners and PEPs, to verify customer information based on external and open sources.

- Sanctioning for non-disclosure or false disclosure in banking application forms and customs form does not exist, and thus is not dissuasive to the crime.
- Mongolia lacks a third-party, independent, private commercial database on beneficial owners or PEPs.
- There is no regulation nor sanctioning related to a person, the main source, who has instructed money laundering to a third party. Only the person who is physically involved in money laundering is punishable.
- The main crime sanctioning for money laundering is not dissuasive.
- There is no regulation related to hawala or money mules or asset mules, that are becoming predominant.
- Several attempts have been made to shrink the civic space, by developing the draft Law on Funds and the draft Law on Unions, without tailored assessment and civil society discussions, and constitute a serious misuse of FATF standards outside the mutual evaluation cycle to suppress the NGOs or the Non-Profit Organizations (NPOs) in Mongolia.

## **4.2 Chapter V**

### **4.2.1 Art. 52 and 58 – Anti-Money Laundering**

Mongolia adopted the AML/CTF Laws in 2006 and adopted the new version in 2013. The law sets the domestic regulatory and supervisory regimes applicable to the following Reporting Entities, as defined in Article 4 of the Law<sup>261</sup> that covers all sectors in compliance with the FATF Recommendations<sup>262</sup>:

- banks;
- non-Banking Financial Institutions;
- insurance companies and insurance licensed entities;
- investment funds; investment management companies;
- licensed securities market entities;
- savings and credit cooperatives;
- real estate agents who are involved in activity of buying and selling of real estate on behalf of a client;
- dealers of precious metals and precious stones, and parties engaged in sales of those manufactured items if engaged in any transactions equal to or above the threshold specified in Article 5.1.2 (transactions equal to or more than US\$5,800 (or equivalent foreign currency) of the entity that has no permanent bank account and not established consistent business relations)
- Notaries, lawyers, accountants and other financial management counsellors if involved in following activities on behalf of a customer:
  - a. buying and selling real estate;

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<sup>261</sup> Unified Legal Information System, Law on Anti-Money Laundering and Counter Terrorism Financing 2013, <https://legalinfo.mn/mn/detail?lawId=9242>, accessed on 24<sup>th</sup> May 2024.

<sup>262</sup> FATF Recommendations, <https://www.fatf-gafi.org/en/topics/fatf-recommendations.html>, accessed on 20<sup>th</sup> May 2024.

- b. managing client's assets;
- c. managing bank, savings or securities accounts;
- d. organizing fundraising or investment activities for establishment or management of a company;
- e. establishing, operating, or managing a legal entity or undertaking specific arrangements under the contract, or buying and selling a business entity; virtual asset service providers; loan service providers specified in Law on Regulating Loan Service Provider's Activities.

These reporting entities must develop and implement internal control and risk management programs, and regularly assess risks of customers, clients, contractors, products and technology according to the AML/CTF Law (Art.4.3). Reporting entities also must conduct Know-Your-Customers (KYC) and identify and verify beneficial ownership of a legal entity (Art 4); conduct customer due diligence (Art 5); and conduct enhanced due diligence (Art.5.9). Suspicious transactions must be reported to the FIU within 24 hours (Art. 7.2; 9) and if there is suspicion that the information of a customer/client is untrue (5.1.4) or that there is a money-laundering or terrorism financing risk (Art.5.1.5), entities must report to the FIU. Cash transactions of US\$5,800<sup>263</sup> or over, or transactions of a single customer below the threshold, but collectively reaches US\$5,800 within 24 hours (Art.5.1.2; 5.1.3) including the foreign settlement transactions (FSTRs) and Virtual asset transactions (VATRs) must be reported to the FIU.

Reporting entities must also collect and store customers' data and revise it biennially (Art.4. 4; 6.2; Art 8). PEPs, irregular transactions, major transactions, transactions to countries or a person of the country which is considered as weak in implementation of AML/CTF regimes by international organizations, and cash transactions are considered as high-risk. For high-risk customers and transactions, enhanced due diligence measures are implemented (Art.4.3; 5.3; 5.5). Mongolian and foreign citizens, or stateless persons, entering or exiting via the Mongolian border carrying physical precious metal and foreign currency in cash equivalent to or more than monetary value of US\$5,800<sup>264</sup> (Art.15.4) without declaration (Art.15.5).

The FIU is in-charge of developing the National Risk Assessment (NRA) (Art.18.1.8). Mongolia has developed NRAs in 2016<sup>265</sup> and in 2020<sup>266</sup>. The 2020 NRA action plan adopted by the Government<sup>267</sup> is not open to public to comment or review and, reporting entities are not aware<sup>268</sup> of the adoption. Based on the NRA, reporting bodies must identify high-risk sectors and high-risk customers (Art.5.9.3); detailed procedures based on risk levels (Art.5.14.5) as defined in the AML/CTF Law.

According to Clause 19.1, the FIU ensures compliance with obligations of the AML/CTF Law of banks while the FRC ensures compliance with obligations of NBFIs,

<sup>263</sup> Mongolbank, Official Rate as of 1<sup>st</sup> January 2024 <https://www.mongolbank.mn/en/currency-rate>, accessed on 8<sup>th</sup> June 2024.

<sup>264</sup> Mongolbank, Official Rate as of 1<sup>st</sup> January 2024 <https://www.mongolbank.mn/en/currency-rate>, accessed on 8<sup>th</sup> June 2024.

<sup>265</sup> National Risk Assessment of ML/TF 2016, not available online (hard copy).

<sup>266</sup> National Risk Assessment of ML/TF 2020, not available online (hard copy).

<sup>267</sup> FIU informed that the action plan of the NRA was adopted by the Government in 2022. The copy and references are not available to public. Meeting held on 3<sup>rd</sup> April 2024.

<sup>268</sup> Anonymous, meeting held on 24<sup>th</sup> February 2024.

insurance companies and insurance licensed entities, investment funds, investment management companies, licensed securities market entities, savings and credit cooperatives, dealers of precious metals and precious stones, real estate agents and virtual asset service providers and, Mongolian Bar Association, Association of Advocates, Chamber of Notaries, Mongolian Institute of Certified Public Accountants, and other authorized bodies that issues the respective permits in the sector ensure and monitor compliance with obligations of notaries, lawyers, accountants and other financial management counsellors respectively, and ensure implementation of the Law according to their risk-based approach. Compliance monitoring, specifically with obligations of the AML/CTF Law of the Mongolian Bar Association, Association of Advocates, Chamber of Notaries, and Mongolian Institute of Certified Public Accountants, is not conducted.<sup>269</sup>

The government imposed a restriction on public officials to hold an account, or have an interest in or any control over financial account in listed jurisdictions of 49 countries by two subsequent resolutions in 2017.<sup>270</sup> In the event of having an account or interest in account, he/she has to report it directly to the IAAC, explaining the reason which is allowed only for specific purposes for public officials working at diplomatic missions abroad or studying. However, the government hasn't provided a general list of PEPs therefore, reporting entities are generating their own which leads to misidentification of PEPs.

Mongolia has established its National Council on AML/CTF regimes, to ensuring the implementation of applicable laws and coordinating AML/CTF activities. This Council is comprised of members from the MoJHA, MFA, Ministry of Finance, Central Bank of Mongolia, FRC and all law-enforcement agencies including the National Counter-Terrorism Council. The head of the Council is decided by the Government based on a proposal of the Prime Minister and, Head of the National Council on AML/CTF is the Minister of Justice, FIU being the Secretariat of the Council.<sup>271</sup>

The main authority to coordinate an extradition or asset recovery and transfer of proceeds of crimes to a foreign country is the MoJHA as the Head of the National Council on AML/CTF is the Minister of Justice. Mongolia does not have a specific law or case management procedure defining the duties of each law enforcement agency and procedures that need to be observed in extradition to and from Mongolia, and asset recovery and transfer of proceeds of crimes to a foreign country.

The MoJHA and the IAAC are the main bodies that cooperate with international networks and similar authorities on combatting and preventing corruption as well as obtaining formal and informal information for criminal cases. According to article 48.1.12 of the Law on the Prosecutor, the General Prosecutor's Agency can establish direct contact and cooperate with foreign competent authorities and other international organizations. The Agency has signed 10 memorandums of understanding and established two treaties and two agreements to facilitate and secure the swift

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<sup>269</sup> Anonymous, Head of Department, Mongolian Institute of Certified Public Accountants, meeting held on 25<sup>th</sup> April 2024.

<sup>270</sup> Unified Legal Information System, List of offshore jurisdictions, Government Resolution 326, 2017, <https://legalinfo.mn/mn/detail/12996>, accessed on 10<sup>th</sup> June 2024.

<sup>271</sup> Mongolbank Financial Information Unit, Revised structure 2018, Decree 70, Prime Minister of Mongolia, <https://fiu.mongolbank.mn/mn/p/2100>, accessed on 24 April 2024.

exchange of information. The Agency is also the national point of contact for the Asset Recovery Inter-Agency Network for Asia and the Pacific (ARIN-AP).

The Company Law requires the company to register any decisions made by the shareholders or board of directors within 15 days at the State Registration Office, including the change in beneficial ownership. There are several laws that require beneficial ownership registration and reporting such as the AML/CTF Law, Banking Law, General Taxation Law, Land Law, Securities Market Law but these laws have 4 different definitions and reporting thresholds on beneficial ownership.

Only the legal owners' database is open. Furthermore, there are different definitions of a beneficial owner in the AML/CTF Law, General Taxation Law,<sup>272</sup> Securities Market Law<sup>273</sup>, Land Law<sup>274</sup>, and Banking Law.<sup>275</sup> The reporting threshold by the beneficial owners also differs by laws and instruction, ranging from 5 to 33 percent of a legal entity's shareholding. Beneficial ownership data is not available to the public (see 4.1.11 Art. 12 – Private Sector Transparency), which is not in compliance with the FATF Recommendations.<sup>276</sup> Although the country started registration of the beneficial owners in January 2020, the data is not publicly available and is used by the law enforcement agencies only. Instead of the beneficial ownership database, the Government has made open the legal owners' registration portal of legal entities since 2020.

- **AML/CTF Law:** a) if a customer is a legal entity, then a person who has a significant or controlling ownership interest solely or jointly with others or holds a management function of the legal entity or is represented by other persons or ultimately owns the legal entity earning benefit and profit by exercising control of the legal entity, its transactions and arrangements to implement the transactions; b) if a customer is an individual then it is a person who is earning benefit and profit by exercising control of such individual's actions and activities or by being represented his/her own actions by such individual; c) as for an asset management transaction, a person who earns benefit or profit by exercising ultimate effective control over the asset management transaction;
- **The General Taxation Law.**<sup>277</sup> The reportable level or a consideration as a beneficial owner in the General Taxation Law however says 'Ultimate Beneficial Owner" shall mean a person that owns 30 percent or more of shares, equity participation or voting rights of the holder of a license and special permit of mineral resources, oil, radioactive minerals or holders of land use or possession titles for possession and use or has a right to receive

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<sup>272</sup> Unified Legal Information System, General Taxation Law 2019, <https://legalinfo.mn/mn/detail?lawId=14403>, accessed on 20<sup>th</sup> March 2024

<sup>273</sup> Unified Legal Information System, Securities Market Law 2013, <https://legalinfo.mn/mn/detail?lawId=9243>, accessed on 1<sup>st</sup> March 2024

<sup>274</sup> Unified Legal Information System, Land Law 2002, <https://legalinfo.mn/mn/detail?lawId=216>, accessed on 20<sup>th</sup> March 2024

<sup>275</sup> Unified Legal Information System, Banking Law 2010, <https://legalinfo.mn/mn/detail?lawId=108>, accessed on 20<sup>th</sup> March 2024

<sup>276</sup>FATF, Beneficial Ownership of Legal Persons 2023, <https://www.fatf-gafi.org/content/dam/fatf-gafi/guidance/Guidance-Beneficial-Ownership-Legal-Persons.pdf.coredownload.pdf>, accessed 26<sup>th</sup> May 2024.

<sup>277</sup> Unified Legal Information System, General Taxation Law 2019, <https://legalinfo.mn/mn/detail?lawId=14403>, accessed 26<sup>th</sup> May 2024.

the dividends directly or through a representing legal entity of one or more continuous structure, exercises the voting rights through representation.

- **The Banking Law<sup>278</sup>** states ‘Ultimate Owner’ refers to a natural person with ownership rights who controls the bank operations, or exercises that right by delegating to others, or owns the bank shares through one or a chain of more legal persons, established the legal entity or who has the right to make earning from the bank shares and operations.
- **The Securities Market Law<sup>279</sup>** defines ‘Beneficial Owner’ to mean the actual owner of the securities entitled to the ownership benefits thereof and who has registered the securities under ownership in the name of the nominal holder pursuant to this Law.

Due to Mongolia’s inability to track transactions automatically, and since incomes are not inspected against tax payments, it is becoming more difficult to identify illegal activities, including the illicit enrichment, money laundering or terrorism financing. Although gold and valuable assets exchangers do obtain special licenses from the FRC, it is still difficult to identify unlicensed gold and valuable assets exchangers as cash transactions are made to a personal account. The FIU under the Central Bank of Mongolia requests informal assistance and cooperation from the General Police Agency on identifying unlicensed gold and valuable assets exchangers.

Public officials report their income and assets to the IAAC upon appointment, revising annually and in the event if income or assets amount and value changes equal to or becomes over 250 times of labor minimum wage.<sup>280</sup> However, the expenditure of such income or assets is not reported, nor can it be reviewed as the Law on Anti-Corruption stipulates to report income but not expenditures. Therefore, excessive spending beyond comprehensible amounts of earning are not reviewed. Income tax is also not adjusted by the tax authority, as there is no legal provision applicable to an individual tax return inspection.

Money-mules for potential corrupt public officials may have increased. As with organizing illegal online gambling and online gaming, the use of money mules is trending. While in illegal gambling, organizers use both personal accounts or those of money mules for agreed daily fees, public officials do not use their personal accounts. Instead, a close relative, assistant, friend’s accounts or a private sector company’s employees personal account are potentially used to conceal the identity of a public official who have provided undue influence using the power.<sup>281</sup> If, cash received in a bank account reaches the reportable amount pursuant to the AML/CTF Law, SARs are reported to FIU and, the bank sends questionnaires to account owners to follow-up suspicions. As reported by account owners, they are unaware or acknowledge no guilt in relation to use of his/her accounts by a third party in majority cases. Accounts

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<sup>278</sup> Unified Legal Information System, Banking Law 2010, <https://legalinfo.mn/mn/detail?lawId=108>, accessed 26<sup>th</sup> May 2024.

<sup>279</sup> Unified Legal Information System, Securities Market Law 2013, <https://legalinfo.mn/mn/detail?lawId=9243>, accessed 26<sup>th</sup> May 2024.

<sup>280</sup> The minimum labour wage was US\$123 in 2022, US\$152 in 2023 and equals to US\$193 a month from 2024. <https://mlsp.gov.mn/content/detail/3088>, Tripartite Consortium on Labour and Social Affairs. Mongolbank, Official Rate as of 1<sup>st</sup> January 2024 <https://www.mongolbank.mn/en/currency-rate>, accessed on accessed on 16 March 2024.

<sup>281</sup> Interview, Anonymous, dated on 24<sup>th</sup> February 2024 and 22<sup>nd</sup> April 2024.

are closed, based on “mismatching information” because, money-mules are not regulated in Mongolia. There are no record of investigation or criminal charges in relation to money mules by FIU. Money mules are used in other sectors not necessarily related to corruption<sup>282</sup> but other predicate offences predominant in Mongolia.

Luxury houses or vehicles’ free use, company’s management business expenditure cards, service or goods’ cards covering all expenses related to, for example, fuel, maintenance of vehicles, luxury items, travel, etc. is common to be given as means of bribery. In addition, the last two-years’ trend shows that in exchange for a decision, public officials often receive quid-pro-quo over-values consultancy, service or procurement from legal entities. Abuse of functions of allocating over-values consultancy, service or procurement contracts by public organizations and SOEs is difficult to be substantiated by evidence, as public officials almost never sign the contract under his/her name. The Criminal Code and the Law on Conflict of Interest refers only to public officials, therefore, a family member or close friend who is not a public official is not punished according to abuse of power or illicit enrichment, etc. Laws require a proof of reciprocal advantages and evidences as per the law in determining the criminality of public officials. As the Anti-Corruption Law and the Criminal Code’s corruption punishment clauses apply to only public officials, there is no jurisdiction to investigate or indict an ordinary citizen.

The Laws of Mongolia do not impose restrictions on the number of accounts a person may hold nor on number of banks a person or a legal entity may be a customer of. Commercial banks do not limit the number of accounts that one customer can hold thus, customers can open any number of accounts at any number of banks. The maximum number of accounts of some customers ranges between 180 to 200 at one of the top banks.<sup>283</sup> Similar to FOREX<sup>284</sup> companies and their employees’ mismatching cash flow, it is common where legal entities account balance remains low and unchanged while beneficial owners or management or accountants’ bank accounts have heavy movement and cash transactions. Although, these movements do not violate applicable laws, regulations or internal procedures, SARs and CTRs are sent to the FIU on a daily basis. Unlike FOREX employees, these transactions may be less in terms of daily mass, but certainly may suggest tax avoidance as the tax authorities examine the legal entities’ bank account receipt and transactions for the tax purposes only. There is no follow up data to support deeper investigations by FIU, nor are cases transferred for investigation.

Except in the event that a customer agreed to disclose it in writing or allowed in laws, providing customers’ information to government authorities without prosecutor’s approval creates distrust to banks and a complete sector.<sup>285</sup> Reporting entities cannot confirm legality of the third party’s request to obtain customer’s information that is

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<sup>282</sup> FOREX companies account balance is usually low, however, daily transaction movement of a person, registered as a FOREX employee, is excessive. In relation to a predicate crime “tax evasion”, CTRs and SARs are sent to FIU on a daily basis. No follow up data to support deeper investigations by FIU nor transferring the case for investigation.

<sup>283</sup> Interview, Anonymous, dated on 24<sup>th</sup> February 2024 and 22<sup>nd</sup> April 2024; Interview with FIU dated on 3<sup>rd</sup> April 2024.

<sup>284</sup> FOREX: foreign exchange

<sup>285</sup> Unified Legal Information System, Law on Saving, Transfer and Loan Activities of Bank and other Authorized Body 2021, <https://legalinfo.mn/mn/detail?lawId=16230554816671>, accessed on 24<sup>th</sup> May 2024.

allowed pursuant to the Article 7.2 of the Law on Saving, Transfer and Loan Activities of Bank and other Authorized Body. In practice, reporting entities must obtain confirmation from the prosecutor's office in the event that they have to disclose customer's data to any third party. Thus, it is required to change the law accordingly. There are no sanctions defined in the Banking Law nor in the Criminal Code for any breaches related to non-compliance or violation related to disclosure of information to a third party illegally by banks.

### **Good practices**

- Under the AML/CTF Law, the reporting entities are banks, NBFIs, licensed insurers, investment funds; investment management companies; licensed securities market entities; savings and credit cooperatives; real estate agents; notaries; lawyers; accountants and other financial management counsellors' virtual asset service providers; and loan service providers.
- The role and responsibilities of reporting entities are specifically detailed in the law.
- Mongolia developed National Risk Assessments in 2016 and in 2020.
- Mongolia has established its National Council on AML/CTF regimes, to ensure the implementation of applicable laws and coordinating AML/CTF activities.
- A risk assessment on ML/TF is regularly conducted in normal activities, introducing new products and technology and undertaking effective measures to minimize the risks.
- All reporting entities are prohibited from entering into relations with shell banks.
- Measures related to restricting public officials from holding a bank account in offshore jurisdiction have been adopted.
- The Company Law requires companies to register any decisions made by the shareholders or board of directors within 15 days, including changes in beneficial ownership.
- The MoJHA and the IAAC have strong collaboration with international networks and similar authorities on combatting and preventing corruption as well as obtaining formal and informal information for criminal cases.

### **Deficiencies**

- The latest National Risk Assessment is not open to public, nor is the action plan adopted by the Government.
- Compliance monitoring of obligations of the AML/CTF Law of the Mongolian Bar Association, Association of Advocates, Chamber of Notaries, and Mongolian Institute of Certified Public Accountants is not made public.
- Mongolia does not have a specific law or case management procedure defining the duties of each law enforcement agency and procedures that need to be observed in extradition to and from Mongolia, and asset recovery and transfer of proceeds of crimes to a foreign country.
- Due to Mongolia's inability to track transactions automatically, and since incomes are not inspected against tax payments, it is becoming more difficult to identify illegal activities, including the illicit enrichment, money laundering or terrorism financing.
- Identification of unlicensed gold and valuable assets exchangers is inadequate.



- The Law on Anti-Corruption stipulates the receipt of income declarations,<sup>286</sup> but does not allow receiving and reviewing expenditures.
- There are no regulations and risk assessments in relation to preventing and detecting money and asset mules.
- One person can hold up to 200 accounts in one commercial bank and there is no restriction on becoming a customer with another bank. Thus, criminals often use accounts for money mulling.
- Investigations of account purpose and beneficial owners of accounts is insufficient.
- Customer's information can be given by the reporting entities to a third party, upon request, and there are no sanctions defined in the Banking Law nor in the Criminal Code for any breaches related to non-compliance or violation related to disclosure of information to a third party illegally by banks.

#### **4.2.2 Art. 53 and 56 – Measures for Direct Recovery of Property**

A basic guarantee to citizens on the recovery of properties and assets is ensured in the Constitution of Mongolia (section 14, Art.16) stating ‘...citizens have rights to appeal to the court to protect his/her rights if he/she considers that the rights or freedoms as stated by the Mongolian law or an international treaty have been violated; to be compensated for the damage illegally caused by others; not to testify against himself/herself, his/her family, or parents and children...’. The Anti-Corruption law of Mongolia states ‘Compensation for losses incurred due to corruption crime and restoration of rights that have been violated and annulment of any illegal decisions, shall be governed in accordance with the Civil Code and other relevant legislation’ (Art.34). The Civil Code<sup>287</sup> 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’ (Art. 491.1). According to the “Coercive measures for confiscation of assets and income” of the Criminal Code (7.5), it is mandatory to confiscate the assets and income, proceeds and instruments of crime.

The Government has adopted by Resolution 195 of 2017 (subsequently revised by Resolution 249 in 2022) the Procedure on Restitution, Securing and Withdrawal of Recovered Assets for Loss and Damage into the State Income After Coercive Measures.<sup>288</sup> This Procedure invalidated previous procedures on Restitution of Assets under the Administrative Order of the Government (131 of 1995) and the Procedure to Issue a Permission to Restitute Assets (6 of 2004).<sup>289</sup> A Procedure on Determining Level of Severity of Damages Caused to Person’s Mentality and Allocating Compensation was adopted in 2023 by A/268 and A/275 Joint-Resolutions of the

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<sup>286</sup> Unified Legal Information System, Law on Anti-Corruption 2006, Chapter Three. <https://legalinfo.mn/mn/detail?lawId=8928>, accessed on 6<sup>th</sup> March 2024.

<sup>287</sup> Unified Legal Information System, Civil Code 2002, <https://legalinfo.mn/mn/detail?lawId=299>, accessed on 24<sup>th</sup> April 2024.

<sup>288</sup> Unified Legal Information System, Procedure on Restitution, Securing and Withdrawal of Recovered Assets for Loss and Damage into the State Income After Coercive Measures 2017, <https://legalinfo.mn/mn/detail?lawId=12863>.

<sup>289</sup> Hard copy, not available online.

Minister of Justice and the Minister of Health.<sup>290</sup> The Supreme Court adopted the Methodology on Psychological Damage and its Restitution in 2023. However, there is no information about any compensation available for psychological damage for victims of corruption.

During investigations and prosecutorial processes, the restitution of assets does not require judicial order but, conducted by investigators by writing notes based on prosecutor's approval. Obtaining judicial order in restitution is not practical as in other countries. Mongolia does not have a 24 hours judges and, the process of exigent restitution is required during off- hours or before holidays to prevent from leaking, escaping or hiding criminal proceeds. In 2024, the Cyber Crimes Combatting Department of the police has restricted the movement of US\$500 million<sup>291</sup> to retribute losses of 304 complaints from citizens and legal entities and continuously collaborating with domestic law-enforcement agencies and FIU for identification, inspection and investigation of cases.

The National Anti-Corruption Strategy for 2023-2030 has defined a Goal (Seven) to refine the planning, oversight and accountability for budget, finance and state audit. Within this Goal, an objective to establish a state central administrative authority and the state audit as a civil petitioner for restitution of any loss and damages caused from corruption crime.

A person or a legal entity that suffered a loss due to a crime may make a civil claim to court to be compensated. In this case, a person or a legal entity pays a state stamp duty depending on a value of a claiming amount. However, if a public organization claims damages or losses, a stamp duty is exempted pursuant to the Law on State Stamp Duty.<sup>292</sup> The compensation for income and assets gained through committing a crime are apportioned for to the State budget. If income and assets gained through committing a crime has been transferred under legally binding agreements to the ownership of others, then the court shall evaluate the item and order the proportionate amount to be confiscated from permitted assets and income of the individual or legal entity committing the crime.

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 (Art. 42; 43; 115–123 and 291–293, Criminal Code; Art. 8.2 and 8.5, Law on Criminal Procedure). If the illicit asset is confirmed to be in Mongolia under the task of prosecutors, law enforcement authorities can identify whether the person is registered as the beneficial owner and whether he or she has

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<sup>290</sup> General Forensic Authority, Procedure on Determining Level of Severity of Damages Caused to Person's Mentality and Allocating Compensation 2023, [https://nfa.gov.mn/uploads/files/%D0%A5%D0%B0%D0%BC%D1%82%D0%B0%D1%80%D1%81%D0%B0%D0%BD%20%D1%82%D1%83%D1%88%D0%B0%D0%B0%D0%BB%20A\\_268%2C%20A\\_275\\_1\\_1.pdf](https://nfa.gov.mn/uploads/files/%D0%A5%D0%B0%D0%BC%D1%82%D0%B0%D1%80%D1%81%D0%B0%D0%BD%20%D1%82%D1%83%D1%88%D0%B0%D0%B0%D0%BB%20A_268%2C%20A_275_1_1.pdf), accessed on 6<sup>th</sup> July 2024.

<sup>291</sup> General Police Department, Total loss to crimes statistic 2024, <https://police.gov.mn/resource/information/File/2024/01/09/uv1gpkf4zhczq3y0/2023.12%20sar%20me dee%20-%20Khokhirol.pdf>, accessed on 6<sup>th</sup> July 2024. Mongolbank, Official Rate as of 1<sup>st</sup> January 2024 <https://www.mongolbank.mn/en/currency-rate>, accessed on 8<sup>th</sup> June 2024.

<sup>292</sup> Unified Legal Information System, Law on State Stamp Duty 2010, <https://legalinfo.mn/mn/detail?lawId=515>, accessed on 24<sup>th</sup> April 2024.

the rights. If such assets are found to be legally registered to any person, the court of Mongolia shall issue an order based on requests from foreign law enforcement bodies. The asset shall be placed under auction and proceeds shall be returned to a foreign country.

During investigation and prosecutorial processes, the restitution of assets does not require a judicial order but must be conducted by investigators by writing notes based on prosecutor's approval. Obtaining a judicial order in restitution is not as practical as in other countries. Mongolia does not have a 24 hours judges and, the process of exigent restitution is required during off-hours or before holidays to prevent from leaking, escaping or hiding criminal proceeds. It is impractical to require a judicial order before restitution as the restitution of assets is a temporary measure to prevent further liquidation of criminal proceeds and the actual confiscation is allowed only after the full adjudication.

A problem occurs in determining the state claimant in a civil case for the restitution of losses and damages caused to the government entities such as the public organization or the SOE. Laws do not define which organization shall act as a claimant in a civil case. In practice,<sup>293</sup> it is complicated to determine if the claimant (any public organization) is a rightful person to claim the loss. According to the Law on Civil Procedure<sup>294</sup> (31.1), if a prosecutor deems that the state or public interest have been violated, then the prosecutor shall participate in a civil proceeding based on a request of a public organization or upon their own initiative. This dubious clause creates complications in determining the rightful claimant and, civil courts demand for a request from the public organization to accept the claimant. In addition. Laws do not specify which public organization should make a request. Furthermore, it is not defined what shall constitute 'own initiative' by a prosecutor. The Law on Prosecutor (20.1) has defined a) if a state interest is breached, the prosecutor shall participate as a party based on a public organizations' request and b) if a public interest is breached, based on a public organization's or upon own initiative, meaning a prosecutor cannot participate on own initiative if a state interest is breached but only based on a public organization's request. Except the Law on Civil Procedure (31.1; 184.1), other laws such as the Civil Code (498.5), General Administrative Law (8.1; 103.1), Law on Civil Service (50.2), and Law on State Audit have defined provisions regulating who shall claim the loss and damages and when and how the state inspector's notice can be validated by the court. Breaches of these laws have also been detected by the Open Society Forum's research in terms of implementing rights related to claiming for loss or damages and rights to making claims to the court on behalf of a state.

Mongolia needs to develop a law regulating relations and detailing procedures of line ministries and law-enforcement agencies in asset recovery from foreign countries or that of the foreign county's assets in Mongolia. Involvement and communication processes with foreign agencies are not defined in laws. Identification of an asset protector and asset managers for both restituted and confiscated assets together with the issues and relations related to extradition of a Mongolian citizens from abroad or

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<sup>293</sup> Judicial decisions' monitoring research, 10<sup>th</sup> edition, <https://forum.mn/>, Open Society Forum 2023, accessed on 4<sup>th</sup> April 2024.

<sup>294</sup> Law on Civil Procedure 2002, <https://legalinfo.mn/mn/detail?lawId=302>, accessed on 24<sup>th</sup> April 2024.

vice versa need to be legalized. The expenses occurred during the transfer of the recovered assets to foreign countries is not defined therefore, Mongolia transfers the assets without any fees.

### **Good practices**

- The Constitution of Mongolia guarantees rights for citizens to recover illegally lost assets or to be compensated, further guaranteed in the Criminal Code, Civil Code, and Anti-Corruption law.
- It is mandatory to confiscate the assets and income, proceeds and instruments of crime.
- The National Anti-Corruption Strategy defined an objective to establish a state central administrative authority and the state audit as a civil petitioner for the restitution of any loss and damages caused from a corruption crime.
- The Government has adopted resolutions and procedures to facilitate the restitution of assets from crimes and recover the assets into the state funds.
- During investigation and prosecutorial processes, restitution of assets does not require a judicial order but is conducted by investigators by writing notes based on the prosecutor's approval.
- Mongolia has established a legal framework for state victim claims in criminal proceedings and has established the right of a person, whether legal or natural, domestic or foreign, to initiate an action to claim compensation for damages in the Civil Code.
- Mongolia collaborates with foreign countries in returning assets based on Mutual Legal Assistance Treaties or the UN Convention against Corruption.

### **Deficiencies**

- Laws do not define which organization shall act as a claimant in civil cases.
- Responsibilities and communication processes of Mongolian agencies in relation to foreign requests in asset recovery are not defined by law.
- The expenses occurred during the transfer of recovered assets to foreign countries is not defined in the law therefore, Mongolia transfers the assets without any fees.

### **4.2.3 Art. 54 – Confiscation Tools**

'Proceeds of crime' means any property, asset, money derived, directly or indirectly, from committing a crime specified in the Criminal Code, if this crime was committed in Mongolia, or, a crime punishable by one year or shall be imprisoned by 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.

According to the Criminal Code, actions and inactions, losses and damages, and outcomes can be considered as a crime. According to the 'Coercive measures for confiscation of assets and income' defined in the Criminal Code (7.5), it is mandatory to confiscate the assets and income, proceeds and instruments of crime. Therefore, foreign requests for confiscation may be enforced on the basis of the general provision

of the Criminal Code and the Law on Criminal Procedure.<sup>295</sup> Upon receipt of a Mutual Legal Assistance (MLA) request from a foreign country, temporary confiscation or seizure measures can be taken by Mongolian authorities based on prosecutor or judicial orders and validations. The General Prosecutor's Office has released the Handbook on Asset Recovery Operations from Crimes in 2020 and Detailed Methodology on MLA on criminal cases (Order A/16, 2019). However, asset management procedures are not regulated and law enforcement agencies operate pursuant to the MoJHA's instruction. The courts of Mongolia can order the confiscation of property of foreign origin by adjudication of an offence of money-laundering if the crime 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 Judicial Decision Enforcement Agency handles the processes of implementation of judicial decisions and the State Properties' Commission deals with the property management, rather than managing recovered assets. The establishment of a body in charge of handling and coordinating the asset recovery matters within the country and inter-country, fees and charges and commissions pertinent to services provided in connection to asset recovery, confiscating apportionable assets from a legal entity and an individual for the corruption crime is not available in Mongolia. In addition, such a body should be in charge of ensuring compliance with disallowing the tax deductibility of expenses that constitute bribes or other expenses in furtherance of corrupt conduct, increasing foreign cooperation in order to effectively intensify detection of illicit enrichment and asset recovery processes and ensuring implementation of MLATs to facilitate asset recovery from and to Mongolia. The training of prosecutors, investigators, Ministry of Foreign Affairs (MFA), MoJHA, FIU, and Judicial Decision Enforcement Agency officials on each subject matter has been almost inexistent in the past.

The National Anti-Corruption Strategy defined an objective in Goal Six to define corruption crimes without any gaps, in compliance with international standards. Embezzlement, fraud, and abuse of and trading in the appointed position's influence crimes is not defined in the laws as a corruption crime. Therefore, the recovery of assets does not cover all applicable requirements defined in the UNCAC. Within this framework, objective 6.1 is aimed at, firstly, training investigators, prosecutors, and other specialists on international and domestic asset recovery, exchange of information, and investigation lessons learnt, establishing an independent body that deals with the MLA handling as per requirement of Article 46, part 13 including relations pertinent to the fees and expenses and enhancing legislations to conduct joint investigations as defined in Article 49 of UNCAC. Asset management shall be regulated pursuant to the Strategy and; conduct analysis on confiscating apportionable assets from a legal entity and an individual for the corruption crime, explicitly define to disallow the tax deductibility of expenses that constitute bribes or other expenses in furtherance of corrupt conduct; enter into additional MLATs to facilitate asset recovery from and to Mongolia; and increase foreign cooperation in order to effectively intensify detection of illicit enrichment and asset recovery processes. In addition, the Strategy aims to take necessary measures to ensure compliance with FATF Recommendations and Immediate Outcomes.

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<sup>295</sup> Unified Legal Information System, Law on Criminal Procedure 2017, <https://legalinfo.mn/mn/detail?lawId=12694>, accessed on 24<sup>th</sup> April 2024.

The IAAC has received 41,381 asset and income declarations in 2020, 41,686 declarations in 2021, 44,829 declarations in 2022 and 47,554 in 2023.<sup>296</sup> The asset and income declarations contain sections to declare ownership of shareholding in the legal entity, properties and assets, including land title, collection, souvenirs and animals. If an asset, generated from a corruption crime, is registered under the name of direct-family members as the owner (wife/husband, children or people living together) of the corrupt criminal, such assets cannot be confiscated according to the applicable laws.

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. Assets of a rightful owner is protected by law. However, when public officials save their illicitly obtained assets under their family or close relatives' names, or when corrupt public officials or their family members' expenses are much higher than their tax-paid income, these cases are left unpunished. The reason for the lack of punishment is inadequate stipulations of the Criminal Code: Article 22.10 refers to only public officials' illicit enrichment and excludes family members or friends from punishment.

### **Good practices**

- Foreign MLA requests for seizing or confiscating assets can be executed by the court and prosecutor's orders guided by the Law on Criminal Procedure on asset confiscation.
- According to the Criminal Code, illegal actions and inactions of public officials, losses and damages, and outcomes can be considered as a crime.
- The National Anti-Corruption Strategy defined objectives to refine the Criminal Code, definitions of corruption crimes, and to comply with the international recommendations, standards and trends.

### **Deficiencies**

- The definition of corruption crimes in Mongolia's Criminal Code does not comply with international standards.
- Asset management procedures are not regulated and law enforcement agencies operate pursuant to the MoJHA's instruction, which needs to be officially regulated.
- A body in charge of handling and coordinating the asset recovery matters within the country and inter-country, fees and charges and commissions pertinent to services provided in connection to asset recovery, confiscating apportionable assets from a legal entity and an individual for the corruption crime, ensuring compliance with disallowing the tax deductibility of expenses increasing foreign cooperation in order to effectively intensify detection of illicit enrichment and asset recovery processes and ensuring implementation of MLATs to facilitate asset recovery from and to Mongolia are all missing.
- Training on asset recovery and management of recovered assets is non-existent.

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<sup>296</sup> IAAC, Annual report 2021, 2022, and 2023, <https://iaac.mn/post/151812> ; accessed on 8<sup>th</sup> March 2024.

- Embezzlement, fraud, abuse of power and trading in the appointed position's influence crimes are not defined in the laws as a corruption crime. Therefore, recovery of assets does not cover all applicable requirements defined in the UNCAC.
- If an asset generated from a corruption crime is registered under a corrupt criminal's family members' name as the owner, such assets cannot be confiscated.
- Legal provisions to 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, is missing from Mongolia's laws.
- The monetary penalty defined in the Criminal Code is not dissuasive.

#### **4.2.4 Art. 51, 54, 55, 56 and 59 – International Cooperation for the Purpose of Confiscation**

The Government of Mongolia has signed treaties on mutual assistance in civil and criminal matters, and extradition treaties with 19 States.<sup>297</sup> Mongolia is discussing terms and conditions of the context of MLATs with other countries<sup>298</sup> on asset recovery, extradition, execution of civil and arbitration orders, separately.

Mongolia is part of several international groups, such as the Egmont Group.<sup>299</sup> 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.

The seizure of assets can be made based on foreign country's request however, the confiscation may only take place with judicial order delivered based on a validated prosecutor's request, which is based on a foreign MLA request. There is no restriction for Mongolian authorities to provide MLA to foreign countries without having an MLAT signed with Mongolia. Mongolia can cooperate in asset recovery based on reciprocity regardless of the existence of a treaty, and it has no *de minimis* rule, therefore the low value of the proceeds of crime is not an obstacle in executing the request. Mongolia provides the MLA in confiscation and restitution of assets based upon foreign country's request, if the country has signed the UNCAC. However, the MLAT facilitates the overall process as it details specific mechanisms between the countries. The National Anti-Corruption Strategy defined objectives to enhance international collaborations and increase the number of MLATs in its objective 6.2 up to the possible extent within 2030.

The handbook and rules are adopted by the General Prosecutor covering prosecutors' tasks in asset recovery, including the confiscation, restitution, transfer of assets,

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<sup>297</sup> General Police Department, Mutual Legal Assistance Treaties, <https://police.gov.mn/as/law/12?page=1&size=20>, accessed on 16<sup>th</sup> June 2024.

<sup>298</sup> Interview, Ministry of Justice and Home Affairs, dated on 18<sup>th</sup> March 2024.

<sup>299</sup> Egmont Group, organization of cooperation of member FIUs, <https://egmontgroup.org/>, accessed on 10<sup>th</sup> July 2024.

record keeping, etc. that takes place domestically. Measures pertinent to the verification and proceedings according to foreign MLA requests is defined thereto. Other government bodies act on instruction of the MoJHA.

**Case 1:** In February 2019, the Independent Authority Against Corruption of Mongolia initiated a criminal case against two Mongolian nationals, Mr. G and Mr. D, who were high-level officials of a state-owned enterprise (SOE). They were suspected of committing abuse of public position or office, receiving a bribe, and money laundering. The case was opened after a suspicious transaction report (STR) was received from a foreign financial intelligence unit. With the help of the Egmont Group and a subsequent mutual legal assistance request to Russia, Latvia, and the British Virgin Islands, it was discovered that between 2006 and 2017, Mr. D had illegally awarded contracts to foreign entities and received bribe payments totaling about US\$8.3 million. It was also revealed that Mr. G had shared in these illegal proceeds and had transferred his share through an offshore bank account controlled by his son. He used £570,000 to purchase a 110 square meter property in the UK.

Mr. G pleaded guilty to money laundering and abuse of office, and Mr. D was found guilty of the same offenses. As part of the plea deal with Mr. G, he agreed to return the United Kingdom property to the government of Mongolia by transferring the property to the SOE where the defendants had been employed. The plea deal avoided part of the proceeds being applied to cover the costs of the United Kingdom authorities if formal confiscation processes had been initiated through the United Kingdom courts.

At the time of transfer, the property had a market value of £1.2 million. A task force led by the Ministry of Finance and involving IAAC, prosecutors, and other ministries decided to rent the property with the intention of using the income to support an orphan children's center for educational purposes. The SOE contracted with a professional property company to manage the rental property. However, subsequent analysis of the cash flows over a two-year period showed that the expenses including transferring ownership; state, local, and council taxes; car park; estate; estate reserve fund; accounting; and utility fees, as well as the rental brokerage service.<sup>300</sup>

**Case 2:** This case was brought up by a whistleblower who reported that Mr. B., a former high-level public official and a political figure, has expensive immovable property abroad. Mr. B was investigated under the illicit enrichment case. Mr. B was suspected of abusing his power in a high-level position and gained assets in an offshore jurisdiction. The IAAC sent the request to several jurisdictions for assistance under the UNCAC. Investigators revealed land and immovable properties valued at US\$780 thousand in 2021 with the assistance of foreign law-enforcement bodies located in British Virgin Islands and UK, involving five different foreign and domestic legal entities.

The criminal court's ruling was passed in the same year while the prosecutor's order to confiscate the illegally obtained properties in December 2021 and acquired land

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<sup>300</sup> Managing Seized and Confiscated Assets, A Guide for Practitioners 2023, pp.148, <https://star.worldbank.org/publications/managing-seized-and-confiscated-assets-guide-practitioners>, 2024 accessed on 7<sup>th</sup> May 2024.



and immovable properties in the value of USD780 thousand from the British Virgin Islands.<sup>301</sup>

**Case 3:** There is another case being investigated under suspicion of money laundering in 2022 by a public official where US\$400 thousand cash has been confiscated and recovered by the IAAC with assistance of foreign law enforcement agencies under the IAAC's request of MLA to Ile of Man.

The negative return compounded by difficulties in communicating with the property managers, unknown future market price, and the possible need for property renovations have led the SOE to sell the property. The funds from the sale will be applied directly to support the orphanage charges that exceed the rental income by about £60,000 per year.<sup>302</sup> A total of US\$12,2million was recovered under the MLAs of foreign countries by Mongolian IAAC.

### Good practices

- The seizure of assets can be made based on a foreign country's request; however, the confiscation may only take place with a judicial order delivered based on a validated prosecutor's request, which is based on a foreign MLA request.
- The Government of Mongolia has signed treaties on mutual assistance in civil and criminal matters, and extradition treaties, with 19 States.
- The National Anti-Corruption Strategy defines objectives to enhance international collaborations and increase the number of MLATs.
- Mongolia is extensively using the UNCAC as a tool to cooperate with foreign countries in asset recovery, if such a foreign country is a State Party to the UNCAC, even without MLATs.

### Deficiencies

- The country's legislation does not explicitly allow competent authorities to preserve property for confiscation in the absence of a foreign request.
- Currently, a separate and special law for mutual legal assistance and asset recovery does not exist.
- Mongolia has not specified by legislation in which case the MLA request should be denied or accepted, exchange of information and evidences, coordination with foreign law enforcement agencies, execute the request, etc. in detail, creating unnecessary delays in processes within the country as well as in justifying Mongolia's own MLA requests to other foreign countries.

#### 4.2.5 Art. 57 – The Return and Disposal of Confiscated Property

The Constitution of Mongolia (Art 16, Clause 3) ensures rights for its citizens to fairly acquire, possess, own and inherit movable and immovable property. Illegal confiscation and requisitioning of the private property of citizens shall be prohibited. If the State and its bodies/organs appropriate private property on the basis of exclusive public need, they shall do so with due compensation and payment. One of three

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<sup>301</sup> Interview Anonymous, IAAC, 6<sup>th</sup> March 2024.

<sup>302</sup> Government of Mongolia 2022, Press conference, <https://mongolia.gov.mn/news/view/26627>, 24<sup>th</sup> May 2024, accessed on 8<sup>th</sup> March 2024.

cohesive measures, according to the Criminal Code, is the confiscation of property. While a seizure can be made based on an investigator’s note with a prosecutor’s approval, the restitution of assets occurs either after the adjudication or during the investigation. However, confiscation of assets can be made only after the judicial decision is passed. The Criminal Code says regardless of expiration of the statute of limitation, criminal proceeds shall be confiscated by the state.

Confiscated national and foreign currencies must be placed in a special account while confiscated assets, income, and physical documents must 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. The Procedure on Confiscated or Restituted Assets, Bailiff Income and Evidences Acquired During Criminal and Violation Cases was adopted by joint Order A/80 and 246 of the Chief Justice and General Prosecutor in 2019 to regulate pertinent matters. Items also need to be registered in the ‘Digital Database of Criminal Case Registration’ and be returned as registered therein. This database functions well.

**Good practices**

- The Constitution of Mongolia ensures rights for its citizens to fairly acquire, possess, own and inherit movable and immovable property and guarantees the return of assets to its prior legitimate owners.
- Illegal confiscation and requisitioning of the private property of citizens is prohibited by law.
- The Criminal Code says that regardless of expiration of the statute of limitation, criminal proceeds shall be confiscated by the state.
- The confiscated assets and proceeds shall be disposed of for indemnification and operational costs of the investigation.
- Management of confiscated assets is clearly defined in the Procedure on Confiscated or Restituted Assets.
- A Digital Database of Criminal Case Registration has been established in Mongolia where the records of the assets and their movement is registered.

**Deficiencies**

- Applicable laws and procedures do not specify details on how the assets shall be returned to their rightful owners and if the investigation or the judicial decision concludes the person is innocent.
- Reporting back to people whose properties were confiscated or restituted is not mandatory.

**4.3 Statistics<sup>303</sup>**

**Money Laundering**

Reporting/Intelligence Phase	Year: 2021	Year: 2022	Year: 2023

<sup>303</sup> The tables below follow the format in this Eurostat report: Eurostat 2013, <http://ec.europa.eu/eurostat/documents/3888793/5856465/KS-TC-13-007-EN.PDF/69cde077-3bd9-4d0d-8c19-a6fe3608c2cd>, accessed on 8<sup>th</sup> March 2024.

Number of Suspicious Transaction Reports (STRs) filed by each category of obliged entities: - Banks and financial institutions - Non-financial businesses and profession (NFBPs)	1801	2626	1799
Number of postponement orders issued by FIU	17	16	36
Number of money laundering investigations carried out independently by law enforcement agencies (without a prior STR)	3	4	8
Number of STRs sent to law enforcement and on which further analysis was made	539	324	765
Number of staff dedicated full-time (or full-time equivalent) to money laundering in the FIU	26	26	26

Investigation Phase	Year: 2021	Year: 2022	Year: 2023
Number of cases initiated by law enforcement agencies on the basis of STRs sent by the FIU	96	123	50
Number of cases brought to prosecution: originating from STRs, CTRs and independent law enforcement investigations	329	336	308

Judicial Phase	Year: 2021	Year: 2022	Year: 2023
Number of persons/legal entities convicted for money laundering offences	3(70)	4(80)	8(88)
Number of sentences by type for money laundering offences	3(70)	4(80)	8(88)

#### Asset Recovery<sup>304</sup>

Judicial Phase	Year: 2021	Year: 2022	Year: 2023
Value of frozen assets	US\$ 35 million	US\$ 152 million	US\$ 5 million
Value of confiscated assets	US\$ 28million	US\$ 674million	US\$ 70 million
Amounts recovered from assets	US\$ 28million	US\$ 674million	US\$ 70 million
Amounts returned	US\$ 34,1 million	US\$132,3 million	US\$ 1,4 million

Source: National Statistical Office, FIU, IAAC<sup>305</sup>

#### 4.4 Short analysis

<sup>304</sup> Mongolbank, Official Rate as of 1<sup>st</sup> January 2024 <https://www.mongolbank.mn/en/currency-rate>, accessed on 8<sup>th</sup> June 2024.

<sup>305</sup> 1212, Files, [https://www2.1212.mn/tables.aspx?tbl\\_id=dt\\_nso\\_2300\\_012v1](https://www2.1212.mn/tables.aspx?tbl_id=dt_nso_2300_012v1), [https://fiu.mongolbank.mn/file/57c536470ba52cf63cdabca309958c41/files/Web\\_2023Q4%20english.pdf](https://fiu.mongolbank.mn/file/57c536470ba52cf63cdabca309958c41/files/Web_2023Q4%20english.pdf); <https://iaac.mn/post/151812>, accessed on 8<sup>th</sup> March 2024.

Data and information can be obtained online from the National Statistical Office website for consolidated statistics, the IAAC annual reports and other information and news, the FIU and FRC websites, and police and prosecutor's office annual reports. Statistical information is not restricted pursuant to the Law on Public Information Transparency. However, not all information that the authors requested was made available during the meeting and afterwards.

Information about the adequacy of financial and human resource capacity, and staff working on money-laundering at FIU, police, prosecutor's office and IAAC is not open to the public and was obtained upon request.

Issues related to mismatching data are persistent. Mongolia lacks academic papers on money laundering and available reports have obsolete information, hence not meeting the authors' needs. Upon receipt of information from authorities, the authors had to verify the information through other means such as the personal connections as the research and analysis also lack numbers to confirm the data.

Mongolia is developing an E-Government platform to enhance and promote digital public service by accumulating and making available all citizens' data and providing access to over 650 public services through the platform. Statistical data is generated by the National Statistical Committee upon receipt of information from each public entity. While public attention was more on user-friendliness of the public organizations' data, comprehensiveness of the information posted online was never assessed by researchers, civil society organizations or third parties.

#### 4.5 Information on asset recovery cases

After the adoption of the UNCAC by Parliament, Mongolia established the IAAC in 2007. The country's budgetary loss due to corruption was not properly reported to the public and only after 2016 did the agency start to report the total loss caused by corruption in a given year.

Year	Total Corruption Loss		Recovered Assets		Value of Seized and Protected Assets	
	US\$	MNT	US\$	MNT	US\$	MNT
2016	US\$11 thousand	MNT37,7 million	US\$821	MNT2,8 million	US\$3 thousand	MNT10 million
2017	US\$20,4 thousand	MNT69,5 million	US1 thousand	MNT3,4 million	US\$8,6 thousand	MNT29,3 million
2018	US\$194,5 thousand	MNT663,2 million	US5,1 thousand	MNT17,4 million	US\$53 thousand	MNT 180,6 million
2019	US\$3,5 million	MNT12,1 billion	US\$3,3 million	MNT11,3 billion	US\$2,8 million	MNT9,7 billion
2020	US\$3,5 million	MNT12,1 billion	US\$10,4 million	MNT35,6 billion	US\$2,9 million	MNT10,1 billion
2021	US\$ 293 million	MNT 1 trillion	US\$28 million	MNT 96 billion	US\$ 35 million	MNT119,5 billion
2022	US\$ 1,6 billion	MNT 5,4trillion	US\$ 674 million	MNT 2,3 trillion	US\$ 152 million	MNT518 billion

2023	US\$ 247,8 million	MNT845 billion	US\$70 million	MNT238,7 billion	US\$4,9 million	MNT17 billion
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Source: IAAC annual reports<sup>306</sup>

Overall, the loss due to corruption increased each year until 2022, then decreased 5.9 times in 2023.<sup>307</sup> The total corruption loss significantly increased in 2022 due to disputes related to a major copper mine, a steel factory and a cement factory. The Government passed a decision to nationalize the steel factory on 13<sup>th</sup> of April 2022<sup>308</sup> and annul the concession agreement signed for the period of 30 years with another one for the reason that private management of the factory caused a loss of US\$353 billion.<sup>309</sup> The copper mine shares were bought from Russian shareholders, allegedly using state funds. The state fund worth US\$530 billion was recovered by the state from the company in 2022.<sup>310</sup> The initial privatization of the steel factory was found to be unfair and non-transparent to the public, with a low value compared to the market price.<sup>311</sup>

The maximum amount lost was in 2022, where the total loss reached to US\$1,6billion (MNT5,4 trillion) and the maximum recovery also reached the record peak in 2022, recovering US\$674million (MNT2,3 trillion)<sup>312</sup> which included the asset recovery by the IAAC from three foreign countries, namely from UK, Isle of Man and British Virgin Islands.

<sup>306</sup> IAAC, Annual report 2016, 2017,2018, 2019, 2020, 2021, 2022, and 2023 <https://iaac.mn/post/151812>, accessed on 8<sup>th</sup> March 2024.

<sup>307</sup> IAAC, Annual report 2021, 2022, and 2023 IAAC <https://iaac.mn/post/151812>; IAAC, News <https://iaac.mn/post/152851> accessed on 8<sup>th</sup> March 2024.

<sup>308</sup> Unified Legal Information System, Government Resolution 124 of 2022 on Measures related to privatization of Khutul cement factory, <https://legalinfo.mn/mn/detail?lawId=16468596086141>; Government Resolution 429 of 2022 on Measures related to Darkhan steel factory, <https://legalinfo.mn/mn/detail?lawId=16532107106691>; Government Resolution 80 of 2016, Procedure in relation to exercising state representation at state-owned legal entity, <https://legalinfo.mn/mn/detail?lawId=207415&showType=1>, accessed on 27<sup>th</sup> July 2024.

<sup>309</sup> Ikon.mn, State Procurement Policy Regulation Agency Director B.Tsengel: It is established Darkhan Steel Factory caused US\$353billion loss to the state, Statement 2023, <https://ikon.mn/n/2w5c>, accessed on 27<sup>th</sup> July 2024.

<sup>310</sup> Montsame.mn, Prime Minister L.Oyun-Erdene: Upon nationalization of Erdenet, the state recovered US\$530billion in the state budget, Speech 2023, <https://montsame.mn/mn/read/327977>; Zms.mn, Was is legitimate to nationalize Erdenet, Darkhan Steel and Khutul, Article 2023, <https://www.zms.mn/a/94466>, accessed on 27<sup>th</sup> July 2024.

<sup>311</sup> Khutul Cement Factory is nationalized by the state, News 2022, <https://dailynews.mn/8218>, accessed on 27<sup>th</sup> July 2024.

<sup>312</sup> Mongolbank, Official Rate as of 1<sup>st</sup> January 2024, <https://www.mongolbank.mn/en/currency-rate>, accessed on 8<sup>th</sup> June 2024.

## V. Recent Developments

**The National Election 2024:** The Parliament election in 2024 shall be held<sup>313</sup> on the 28<sup>th</sup> of June nationwide with a new system: 78 members will be elected by a first-past-the-post system, and the remaining 48 members will be elected through a proportional system. A total of 125 members will be elected (a boost in number from 76 members previously).

**The Action Plan of the National Anticorruption Strategy.** The Parliament of Mongolia adopted the Action Plan of the National Anticorruption Strategy on 16<sup>th</sup> May 2024.

**The draft Law on Whistleblowers.** On 13 March, 2024, the Deputy Minister of Justice announced publicly that the MoJHA shall submit the draft Law on Whistleblowers' Protection to the Parliament for discussion during the spring recess. The Parliament posted the order and topics of discussion from 25-29 March 2024 on its website.<sup>314</sup> According to it, the Working Group shall be adjoined on 29 March 2024 to prepare to send the draft Law on Whistleblowers' Protection to the Parliament.<sup>315</sup>

**The draft Law on Extractive Industry Transparency.** The MoJHA's planned organization of the Regional Anti-Corruption Forum to present the outcomes of the Government's anti-corruption efforts, including the implementation of the Five-Sh Initiatives initiated in 2022 within the framework of 'The Year on Anti-Corruption' was cancelled as of 24 May 2024.

**Limitations of State Involvement on SOEs' Businesses.** The Parliament posted the list order and topic of discussion from 25-29 March 2024 on its website<sup>316</sup> where the final discussion on draft Parliament's Decree on 'Temporary Restriction to Establish SOEs and Improving Profit' and 'Limitation of State Involvement in SOEs' Activities' shall be discussed based on 12 Parliament members' proposal.

**The draft Law on Courts.** The Parliament posted the list order and topic of discussion from 25-29 March 2024 where the Working Group shall be adjoined to prepare the draft Law on Courts to the Parliament on 27 March 2024. The draft Law has incorporated changes to establish an Independent Anti-Corruption Court in Mongolia.

**Democracy Summit.** In March 2024, Mongolian Minister for Justice and Home Affairs participated in the Second Summit for Democracy's Indo-Pacific Regional Meeting in Seoul, South Korea. He outlined the Mongolian government's focus on tackling various causes of corruption through comprehensive reforms and introduced the new anti-corruption strategy publicly for the first time. As a country neighboring two giants, Russian and China, Mongolia is taking diplomatic measures to fully cooperate and

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<sup>313</sup> Parliament election was held on 28<sup>th</sup> June 2024.

<sup>314</sup> Parliament, List of laws to be discussed by the Parliament in spring 2024 session, <https://www.parliament.mn/nn/52059/>, accessed on 25<sup>th</sup> May 2024.

<sup>315</sup> Parliament spring session ended on 4<sup>th</sup> July 2024. There was no progress on discussion of the draft Whistleblowers' law.

<sup>316</sup> Parliament, List of laws to be discussed by the Parliament in spring 2024 session, <https://www.parliament.mn/nn/52059/>, accessed on 25<sup>th</sup> May 2024.

support the Summit for Democracy commitments without officially engaging as a party to it.<sup>317</sup>

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<sup>317</sup> Summit for Democracy, The 3<sup>rd</sup> Summit for Democracy, Leaders' Plenary, <https://s4dkorea.kr/?menu=1>, accessed on 5<sup>th</sup> May 2024.

## VI. Recommendations

### Recommendations for Priority Actions

1. Implementation of the National Anti-Corruption Strategy should be prioritized by all stakeholders;
2. Revise the Criminal Code to:
  - refine definitions of corruption crimes and follow-up crimes in line with UNCAC and international standards;
  - define beneficial owners consistently across sectors;
3. Revise the Law on Anti-Corruption to:
  - include expenditure reports in declarations and allow inspection and investigation of both income and expenditure of public officials;
  - avail possibilities for the IAAC to inspect and investigate tax payments for investigating properties and assets;
4. Revise the Law on Conflict of Interest to:
  - increase the cooling-off period for public officials;
  - define Politically Exposed Persons (PEPs) under an umbrella term to include all sectors by a coalesced term, regardless of sector of applicability;
  - ensure increased concern for PEPs as vulnerable to various corruption and conflict of interest risks beyond two years;
  - restore a clause restricting appointment of public officials with a conflict of interest;
  - restore a guarantee ensuring the budget of the IAAC shall not be less than that of the previous year;
5. Adopt the Ethics Code for judges in compliance with the Bangalore Principles of Judicial Conduct;
6. Improve technical assistance in identifying and developing National Risk Assessment;
7. Develop a consolidated list of Politically Exposed People available to commercial banks and non-banking financial institutions for the purpose of KYC, verifying customers and conducting enhanced due diligence.;
8. Adopt new measures to identify, conduct inspection, investigation, and exchange of information on money mules, asset mules, and increase sanctions;
9. Adopt the Law on protection of whistleblowers and ensure adequate protection mechanisms that prevent retaliation;
10. Adopt the Law on extractive industry transparency;
11. Adopt the Law on Asset Management.
12. Revise the Law on Public Information Transparency to list confidential information and delist open information.
13. Revise the Law on Transparency of Public Information, the Law on State and Official Secrecy, and the Law on Personal Information Protection that restricts public access to information and ensure protection of rights to information for reporters, researchers and public.
14. The Parliament must restrict passing laws without public discussions and prior studies in compliance with applicable laws.
15. The Parliament and the Government of Mongolia must restrict passing restrictive laws that would significantly burden and limit legitimate activities of non-governmental organizations in Mongolia, and ensure and protect the civic



space by allowing consistent consultations, multi-stakeholder dialogue and public awareness campaigns while complying with international regional bodies' standards.

## **Recommendations for Further Actions**

16. Ensure public participation in budget and other decision-making process;
17. Ensure the transparency of State-Owned Enterprises' budget management and contract transparency, and eradicate government and political involvement in their appointment, decision-making, contract signing, management, and day-to-day activities;
18. Adopt new measures for reporting entities to determine the maximum limit of bank accounts per person based on risk assessments on multiple accounts;
19. Adopt measures to enhance tracking tax evasion and tax avoidance;
20. Implement the Law on Legislations and analyze legislations every five years.
21. Adopt regulations on coordination of public offices in extradition;
22. Adopt the law determining the state claimant in civil cases related to corruption crimes;
23. Implement the Law on Anti-Corruption and submit recommendations on effective anti-corruption measures by the Parliament, on investigation and under-cover works and asset and income declarations' assessment by the Standing Committees of the Parliament and on anti-corruption prevention and awareness raising activities by the Public Council respectively each year to the IAAC;
24. Implement the Law on Anti-Corruption by the Standing Committee on Ethics and Discipline and inspect and report Parliament members' ethics and compliance breaches;
25. Enhance Artificial Intelligence program usage in FIU reports and IAAC asset and income declarations;
26. Interface the asset and income declaration system with the tax system to identify illegal income and expenses, and to improve AML/CTF effective measures;
27. Improve the technical capacity of the IAAC in identifying sectoral and process corruption risks;
28. Enhance IAAC's staff development and reduce the language barrier;
29. Consider establishing local-provincial or local-regional branches of the IAAC;
30. Remove the monthly approval process from the Ministry of Finance to allocate funds for the IAAC out of the approved budget;
31. Enhance understanding on human rights and compliance, transparency and accountability by systematic training at public offices, especially law-enforcement agencies.

## VII. Annex

### 7.1 Data and Case Information

Information obtained from open sources was in accordance with the Law on Public Information Transparency (2021), Law on State and Official Information Confidentiality (2016), Law on Glass Accounts (2014), Budget Law (2012), Law on State and Local Governments' Property (1996), Law on Procurement (2023), and Procedure on Receipt, Registration, Transfer and Review of Citizens and Public Complaints and Information Lodged to the IAAC and the Procedure on Acceptance of Complaints and Information to the IAAC by Citizens and Legal Entities through Hot Line, both adopted by Resolution A/70 of the Head of the IAAC in 2018 and other legislations.

The FIU has published data,<sup>318</sup> except for the following:

- numbers of unsuspended custodial sentences by length (as principal offences or predicate offences);
- postponement orders adopted on reported transactions;
- money laundering investigations carried out independently by law enforcement agencies (without a prior STR) in the Reporting/Intelligence Phase;
- numbers of convictions for laundering proceeds of crimes committed abroad;
- convictions for crimes other than money laundering originating from STRs,
- number of unsuspended custodial sentences by length (as principal offence, as predicate offence);
- suspicious cash activities at the border reported to the FIU (including those based on declarations and smuggling) in the Investigation Phase and number of freezing procedures (based on a court order);
- confiscation procedures;
- information on requests received for freezing orders from another country;
- cases initiated by law enforcement agencies on the basis of STRs sent by the FIU and number of cases brought to prosecution: originating from STRs;
- CTRs and independent law enforcement investigations in Judicial Phases.

The above information was not available on an open source and was not submitted upon request by both the FIU and General Police Department.

### 7.2 Table on Freedom of Information Requests

ID No	Institution	Date of request	Date of answer	Information requested	Information provided
1/161	Financial Information Unit of Mongolbank	6 <sup>th</sup> March 2024	27 <sup>th</sup> March 2024	Requested a meeting with the FIU and presented a list of questions.	The meeting was held, and the FUI shifted the responsibility to the police to respond.

<sup>318</sup> FIU, Publications, <https://fiu.mongolbank.mn/en/publication/4000>, accessed on 4<sup>th</sup> July 2024.

					The police did not respond
1/162	The Prosecutor General's Office of Mongolia	3 <sup>rd</sup> April 2024	11 <sup>th</sup> April 2024	A list of questions on the number of dedicated staff and cases committed abroad	Answer was provided in full.
1/163	Independent Authority Against Corruption of Mongolia	3 <sup>rd</sup> April 2024	19 <sup>th</sup> April 2024	Number of dedicated staff and number of cases committed abroad on money laundering	Response was provided.
1/164	General Intelligence Agency of Mongolia	3 <sup>rd</sup> April 2024	15 <sup>th</sup> April 2024	Statistical data on money laundering.	Information not provided. The response was that the information is pertinent to the agency's operations and classified as a state secret.
1/166	Independent Authority Against Corruption	26 <sup>th</sup> April 2024	3 <sup>rd</sup> May 2024	Requested list of participants to official review meeting, detailed information on case investigations and declarations and follow-ups.	Response was provided.

## 7.3 Functions and Jurisdictions of Law-Enforcement

Functions/ mandate/ powers	Jurisdiction									
	Public sector						Private sector		Non-government	
	Legislature	Judiciary	Government	Police, IAAC, GIA, GPA officers, military etc.	Other public service	SOEs	All business / some business	Public contractors	Public contractor NGOs	Charities / NGOs
Research, analysis, intelligence, risk assessment & detection	IAAC, NGOs	IAAC, NGOs	IAAC, NGOs	IAAC, NGOs Internal team	IAAC, NGOs	IAAC, NGOs	IAAC, NGOs Internal team	IAAC, NGOs Internal team	IAA IAAC, NGOs Internal team	IAAC, NGOs Internal team
Corruption Prevention, Education & Awareness Raising	IAAC, NGOs	IAAC, NGOs	IAAC, NGOs	IAAC, NGOs	IAAC, NGOs	IAAC, NGOs	IAAC, NGOs Internal team	IAAC, NGOs Internal team	IAAC, NGOs Internal team	IAAC, NGOs Internal team
Asset and Income Declaration oversight, inspection and investigation	Standing Committee on Ethics and Accountability of Parliament	Court General Council	IAAC, if Government Cabinet member is a member of Parliament	IAAC IAAC's senior and undercover officers' declarations by Standing Committee on Legislations of Parliament	IAAC	IAAC	IAAC, if applicable	IAAC, if applicable	IAAC, if applicable	IAAC, if applicable
Corruption investigation	IAAC	IAAC	IAAC	GPA shall determine jurisdiction IAAC /Police / GIA	IAAC	IAAC	IAAC	IAAC	IAAC	IAAC
Conflict of Interest investigation	IAAC	IAAC	IAAC		IAAC	IAAC	IAAC	IAAC	IAAC	IAAC
Corruption investigation – own motion powers	IAAC	IAAC	IAAC		IAAC	IAAC	IAAC	IAAC	IAAC	IAAC
Fraud, embezzlement investigation	Police	As per internal procedure	Police	Police	Police	As per internal procedure	As per internal procedure	As per internal procedure	As per internal procedure	As per internal procedure
Money-laundering investigation	Police IAAC, only if revealed during own investigation	Police IAAC, only if revealed during own investigation	Police IAAC, only if revealed during own investigation	Police IAAC, only if revealed during own investigation	Police IAAC, only if revealed during own investigation	Police IAAC, only if revealed during own investigation	Police IAAC, only if revealed during own investigation	Police IAAC, only if revealed during own investigation	Police IAAC, only if revealed during own investigation	Police IAAC, only if revealed during own investigation
Prosecution	GPA	GPA	GPA	GPA	GPA	GPA	GPA	GPA	GPA	GPA
Asset recovery / confiscation / restitution	IAAC	IAAC	IAAC	IAAC	IAAC	IAAC	IAAC	IAAC	IAAC	IAAC
Asset recovery /confiscation / restitution from abroad, assist to foreign country in recovery of assets	MOJHA, GPA, IAAC No regulation						MOJHA, GPA, IAAC No regulation		MOJHA, GPA, IAAC No regulation	
Recovered asset management	No regulation Mainly resolved by JDEA						No regulation Mainly resolved by JDEA		No regulation Mainly resolved by JDEA	

Source: authors

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