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OPINION ON THE DRAFT LAW ON AMENDMENTS TO THE LAW ON POLITICAL PARTIES

MONGOLIA

This Opinion has benefited from contributions by **Ms. Barbara Jouan-Stonestreet**, International Expert in Governance and Political Finance, Member of ODIHR Core Group of Experts on Political Parties and **Dr. Fernando Casal Bértoa**, Associate Professor in Comparative Politics, Member of ODIHR Core Group of Experts on Political Parties. It has also been peer reviewed by other members of the ODIHR Core Group on Political Parties.

Based on an unofficial English translation of the Draft Law on Amendments to the Law on Political Parties of 2025.

OSCE Office for Democratic Institutions and Human Rights

Ul. Miodowa 10, PL-00-251 Warsaw
Office: +48 22 520 06 00
www.legislationline.org

EXECUTIVE SUMMARY AND KEY RECOMMENDATIONS

The Draft Law on Amendments to the Law on Political Parties of Mongolia (Draft Law) aims at changing several provisions of the existing Law related, in particular, to sources of political party funding and financial reporting requirements.

While some amendments appear to aim at rebalancing the relationship between public and private funding, the proposed measures raise concerns from the perspective of international standards on political finance, transparency and fairness. Most notably, the proposed reduction of the cap on public funding linked to private contributions within the matching fund system could entrench existing disparities in a context where private donations are uncommon, and ultimately restrict access to public funds for smaller, new established or less resourced parties, thereby undermining political pluralism as a core element of democratic systems.

Similarly, the removal of limits on income generated from party-owned assets, without introducing appropriate safeguards, could further consolidate the dominance of wealthier parties. Without adequate regulation and transparency mechanisms, this may exacerbate an uneven political playing field and contravene the principles of fair competition and equal opportunity.

With respect to financial transparency, restricting the existing requirement for political parties to channel all income through a single bank account to solely to public funds would constitute a clear regression from established good practice. This change could significantly weaken financial oversight and increase the risk of unreported private funding. Moreover, the draft amendments eliminate the requirement for party-affiliated organizations to submit financial reports to the General Election Commission, undermining independent oversight and reducing accountability. These developments run counter to established international best practices, which emphasize transparency, robust monitoring, and equal conditions for all political actors.

More broadly, the Draft Law does not appear to address a number of recommendations previously made by ODIHR in its May 2025 Final Opinion on the Law on Political Parties of Mongolia, nor those jointly issued with the Venice Commission in their 2022 Joint Opinion and ODIHR's 2019 Opinion. These prior assessments highlighted several areas in the legal framework requiring improvement to ensure full compliance with the right to freedom of association and to enhance the integrity of political party financing.

Key outstanding issues include the need to revise rules on party membership and registration, ensure greater autonomy for parties in their internal governance, narrowly define grounds for dissolution, centralize financial oversight, regulate third-party involvement more clearly, and strengthen financial reporting obligations.

ODIHR further encourages a review of the public funding model with consideration given to a more egalitarian allocation method — such as increasing the coefficient for the first allotment based on the number of votes received by an eligible party in the election of the *State Great Khural*, while reducing the emphasis on the number of seats obtained by the respective party. Additionally, given previous delays in implementing the Law on Political Parties—as noted in ODIHR's May 2025 Final Opinion—any further postponement should be carefully evaluated. A well-organized, transparent, and inclusive legislative process would not only enhance the quality and legitimacy of

the law but also facilitate its practical implementation thereby fostering greater public trust in democratic institutions.

These considerations should inform future reform efforts to ensure that political party regulation in Mongolia upholds democratic standards and promotes a fair, transparent, and pluralistic political environment.

More specifically, and in addition to what is stated above, ODIHR makes the following recommendations to further strengthen the provisions of the Draft Law in accordance with international standards and good practices:

A. **Regarding sources of funding of political parties**:

1. to reconsider the amendments to Article 27(8) of the Law, as lowering the ceiling on public funding tied to private contributions within the matching fund system risks reducing overall public financial support, especially to smaller or newly established political parties or political parties whose platforms represent less wealthy segments of society, further limiting their ability to compete on an equal footing; [para. 33]

2. to avoid a full repeal of the limitation on political parties' income derived from their own assets while considering defining a certain threshold or introducing complementary disclosure and reporting requirements; [para. 37]

B. **Regarding reporting requirements**:

1. to maintain the current wording of Article 26(7) of the Law on Political Parties, which explicitly requires that all income-regardless of its source-be routed through a single bank account, while promoting financial transparency and preventing potential loopholes; [para. 42]

2. to enhance transparency and accountability in political financing, reconsider the proposed amendments to Articles 33(12) and 36(14) of the Law on Political Parties by ensuring that the financial information of organizations affiliated with political parties is incorporated into party financial reports and remains subject to independent oversight by the General Election Commission. [para. 47]

These and additional recommendations are included throughout the text of this Opinion, highlighted in bold.

As part of its mandate to assist OSCE participating States in implementing their OSCE human dimension commitments, ODIHR reviews, upon request, draft and existing laws to assess their compliance with international human rights standards and OSCE commitments and provides concrete recommendations for improvement.

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I. INTRODUCTION

1. On 25 June 2025, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) received a request from the Director of the Parliamentary Research and Development Institute of Mongolia for a legal review of the Draft Law on Amendments to the Law of Mongolia on Political Parties (hereinafter "Draft Law").
2. On 27 June 2025, ODIHR responded to this request, confirming its readiness to prepare a legal opinion on the compliance of the Draft Law with international human rights standards and OSCE human dimension commitments.
3. The present legal analysis should be read together with the *ODIHR Final Opinion on the Law on Political Parties of Mongolia* (May 2025)[1] (hereinafter the "Final Opinion")[2], as well as ODIHR-Venice Commission Joint Opinion on the Draft Law on Political Parties of Mongolia (2022)[3] (hereinafter "2022 Joint Opinion") and the relevant findings and recommendations from the *ODIHR Election Observation Mission Final Report on the Parliamentary Elections of 28 June 2024.*[4]
4. This Opinion was prepared in response to the above request. ODIHR conducted this assessment within its general mandate to assist OSCE participating States in the implementation of their OSCE human dimension commitments.[5]

II. SCOPE OF THE OPINION

5. The scope of this Opinion covers the Draft Law submitted for review. Thus limited, the Opinion does not constitute a full and comprehensive review of the entire legal and institutional framework governing the regulation of political parties and their financing in Mongolia.
6. The Opinion raises key issues and highlights areas of concern. In the interest of conciseness, it focuses on those provisions of the Draft Law that require amendments or improvements rather than on its positive aspects. The ensuing legal analysis is based on international and regional human rights standards, norms and recommendations as well as relevant OSCE human dimension commitments and international good practices, including the ODIHR-Venice Commission Joint Guidelines on Political Party Regulation.[6]
7. The Opinion also highlights, as appropriate, good practices from other OSCE participating States. When referring to national legislation, ODIHR does not advocate for any specific country model, but rather focuses on providing clear information about applicable international standards while illustrating how they are implemented in practice

1 See ODIHR-Venice Commission, *Joint Opinion on the Draft Law on Political Parties of Mongolia* (20 June 2022). See also ODIHR, *Opinion on the Draft Law on Political Parties of Mongolia* (27 November 2019).

2 See ODIHR, *Final Opinion on the Law on Political Parties of Mongolia*, May 2025.

3 See *ODIHR-Venice Commission, Joint Opinion on the Draft Law on Political Parties of Mongolia* (20 June 2022).

4 See ODIHR, *Mongolia - Parliamentary Elections (28 June 2024) - ODIHR Election Observation Mission Final Report*, 13 December 2024. See also ODIHR Electoral Recommendations.

5 See in particular, the *1990 OSCE Copenhagen Document*, para. 7.6., whereby the OSCE participating States committed to "*respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organisations and provide such political parties and organisations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities*."

6 See the ODIHR-Venice Commission, *Guidelines on Political Party Regulation* (2nd ed., 2020).

in certain national laws. Any country example should be approached with caution since it cannot necessarily be replicated in another country and has always to be considered in light of the broader national institutional and legal framework, as well as country context and political culture. Moreover, in accordance with the Convention on the Elimination of All Forms of Discrimination against Women[7] (hereinafter "CEDAW") and the 2004 OSCE Action Plan for the Promotion of Gender Equality[8] and commitments to mainstream gender into OSCE activities, programmes and projects, the Opinion integrates, as appropriate, a gender and diversity perspective.

8. This Opinion is based on an unofficial English translation of the Draft Law, which is annexed to this document. Errors from translation may result. Should the Opinion be translated in another language, the English version shall prevail.

9. In view of the above, ODIHR stresses that this review does not prevent ODIHR from formulating additional written or oral recommendations or comments on respective subject matters in Mongolia in the future.

III. LEGAL ANALYSIS AND RECOMMENDATIONS

1. Relevant International Human Rights Standards and OSCE Human Dimension Commitments

10. Political parties are essential in the democratic process and foundational to a pluralist society. They should be regulated in a manner that supports the rights to freedom of association and expression, as well as genuine and democratic elections. These rights are fundamental to the proper functioning of a democratic society.[9] To fulfil their core functions, political parties need appropriate funding both during and between election periods. At the same time, the regulation of political party funding and its transparency are essential to guarantee political parties' independence from undue influence of private and foreign donors, state and public bodies, as well as to ensure that parties have the opportunity to compete in accordance with the principle of equal opportunity.[10]

11. Fundamental rights afforded to political parties and their members are found principally in Articles 19 and 22 of the International Covenant on Civil and Political Rights (hereinafter "ICCPR"), which protects the rights to freedom of expression and opinion and the right to freedom of association, respectively. Article 25 ensures the right to participate in public affairs.[11] International standards on financing political parties and election campaigns are found in Article 7 paragraph 3 of the United Nations Convention against Corruption (hereinafter "UNCAC").[12]

12. While Mongolia is not a Member State of the Council of Europe (hereinafter "the CoE"), the European Convention for the Protection of Human Rights and Fundamental

7 See the *UN Convention on the Elimination of All Forms of Discrimination against Women* (hereinafter "CEDAW"), adopted by General Assembly resolution 34/180 on 18 December 1979. Mongolia ratified the Convention on 20 July 1981.
8 See the *OSCE Action Plan for the Promotion of Gender Equality*, adopted by Decision No. 14/04, MC.DEC/14/04 (2004), para. 32.
9 See ODIHR-Venice Commission, *Joint Guidelines on Political Party Regulation*, para. 17.
10 *Ibid.*
11 See *International Covenant on Civil and Political Rights* adopted by the UN General Assembly by resolution 2200A (XXI) of 16 December 1966. Mongolia ratified the Covenant on 18 November 1974.
12 See *UN Convention against Corruption* (UNCAC), adopted by the General Assembly on 31 October 2003, by resolution 58/4. The Convention entered into effect on 14 December 2005, and Mongolia ratified it on 11 January 2006.

Freedoms (hereinafter "the ECHR"),[13] other CoE's instruments and caselaw of the European Court of Human Rights may be of relevance, since they contain provisions similar to those in the ICCPR, and serve as tools of interpretation and as useful and persuasive reference documents on this issue, from a comparative perspective.

13. In addition, by joining the OSCE in 2012, Mongolia has expressed its adherence to various commitments related to the right to freedom of association, including the right to associate through political parties, expressed in several OSCE documents.[14] In particular, according to paragraph 7.6 of the 1990 OSCE Copenhagen Document, OSCE participating States committed to "*respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organisations and provide such political parties and organisations with the necessary legal guarantees to enable them to compete with each other on a basis of equal treatment before the law and by the authorities.*"[15] The fair implementation of campaign finance regulations and their effective oversight are provided for in paragraph 24 of the 1990 OSCE Copenhagen Document, which states that participating States should ensure that any restrictions on fundamental freedoms "*are not abused and are not applied in an arbitrary manner, but in such a way that the effective exercise of these rights is ensured*"[16]. Other OSCE commitments under the Copenhagen Document include the protection of the freedom of association (paragraph 9.3), of the freedom of opinion and expression (paragraph 9.1) and obligations on the separation of the State and the party (paragraph 5.4). Additionally, Ministerial Council Decision 7/09 on women's participation in political and public life is applicable.[17]

14. These standards and commitments are supplemented by various guidance and recommendations from the UN, the CoE and the OSCE. At the international level, these include, among other, the General Comment No. 25 of the UN Human Rights Committee on the right to participate in public affairs, voting rights and the right of equal access to public service interpreting state obligations under Article 25 of the ICCPR.[18]

15. Furthermore, the CoE Committee of Ministers' Recommendation (2003)4 on Common Rules Against Corruption in the Funding of Political Parties and Electoral Campaigns (hereinafter "CoE Committee of Ministers' Recommendation Rec(2003)4"), as well as the Parliamentary Assembly of the CoE, Recommendation 1516(2001) on financing of political parties may serve as useful reference.[19]

16. The ensuing recommendations will also refer, as appropriate, to other nonbinding documents that provide further detailed guidance. These include the ODIHR and Venice Commission Joint Guidelines on Political Party Regulation (hereinafter "2020 Joint

13 See the *Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms* (ECHR) entered into force on 3 September 1953. Article 11 of the ECHR sets standards regarding the right to freedom of association, protecting political parties and their members as special types of associations. Article 3 of the First Protocol to the ECHR guarantees the right to genuine elections. Caselaw of the ECtHR provides additional guidance for CoE Member States on ensuring that laws and policies comply with key aspects of Article 11 (the right to freedom of peaceful assembly and to freedom of association). Furthermore, the right to freedom of opinion and expression under Article 10 of the ECHR and the right to free elections guaranteed by Article 3 of the First Protocol to the ECHR are also relevant when reviewing legislation on political parties.

14 For an overview of these and other OSCE Human Dimension Commitments, see ODIHR, *Human Dimension Commitments (Thematic Compilation)*, 4th Edition, particularly Sub-Sections 3.1.9, 4.1.2, 4.2.2 and 5.2.

15 See the *1990 OSCE Copenhagen Document*.

16 *Ibid*

17 See the *OSCE Ministerial Council Decision 7/09*, 2 December 2009, Women's participation in political and public life.

18 See the *UN Human Rights Committee General Comment 25*: The right to participate in public affairs, voting rights and the right of equal access to public service, UN Doc. CCPR/C/21/Rev.1/Add.7.

19 See *the Council of Europe Committee of Ministers, Recommendation Rec(2003)4* to member states on common rules against corruption in the funding of political parties and electoral campaigns, adopted on 8 April 2003. See also *Parliamentary Assembly of the Council of Europe, Recommendation 1516(2001)* on financing of political parties, adopted by the Standing Committee, acting on behalf of the Assembly, on 22 May 2001.

Guidelines"),[20] ODIHR and Venice Commission Joint Guidelines on Freedom of Association,[21] and other[22].

2. Background and Status of Implementation of Previous ODIHR Recommendations

17. The Law on Political Parties of Mongolia was adopted on 7 July 2023 and entered into force on 1 January 2024.

18. In its Final Opinion on the Law on Political Parties of Mongolia of May 2025, ODIHR welcomed the provisions of the Law which addressed some of the recommendations made by ODIHR and the Venice Commission in the 2022 Joint Opinion and recommendations made by ODIHR in its 2019 Opinion[23]

19. ODIHR also welcomed that a number of provisions recommended by ODIHR and the Venice Commission in the 2022 Joint Opinion were retained and feature in the adopted Law, such as those governing donations to party-affiliated organizations to prevent the use of affiliated organizations as channels for third-party financing, as well as prohibiting donations made on behalf of another (e.g., "straw donors")[24].

20. At the same time, the concerns raised in the 2022 ODIHR-Venice Commission Joint Opinion on the Draft Law on Political Parties of Mongolia[25] remain applicable for the large part, as detailed in the Final Opinion.

21. On 7 July 2023, the Law on the Procedure for Implementing the Law on Political Parties (hereinafter the "Implementing Law") was adopted and subsequently amended on 13 December 2024 to extend the deadline for the implementation of several obligations by the political parties.[26] Under the amended Implementing Law, a party must take measures to bring its charter, program, and internal organization into conformity with the Law by 31 December 2025, and "*shall submit the amendments to the Supreme Court within 30 days*" (Article 2). At the same time, the Implementing Law does not clearly list which provisions of the Law are subject to postponement until the end of 2025.

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20 See ODIHR-Venice Commission, *Joint Guidelines on Political Party Regulation* (2nd edition, 2020).

21 See ODIHR-Venice Commission, *Joint Guidelines on Freedom of Association* (2015).

22 See also the 2002 Council of Europe's Venice Commission *Code of Good Practice in Electoral Matters* (Code of Good Practice) which further stresses the need for transparency, equality of opportunity, and effective oversight, in sections I.2.3 and II.3. A For other international standards see ODIHR *Final Opinion on the Law on Political Parties of Mongolia*, May 2025.

23 See ODIHR-Venice Commission *2022 Joint Opinion*, para. 43, for instance, the removal of the provisions envisaging a complex procedure with several stages for the formation of a political party, such as the setting-up of a working group, the organization during at least 60 days of public meetings to recruit a certain number of citizens, etc.; para. 53, the increase of the time period (from 30 to 60 days) within which the party shall submit amendments introduced in a party statute as well as decisions on appointing a party leader to the Supreme Court, with the non-compliance with the deadline no longer serving as a ground for refusing to register the amendments or the new leader of a party; paras. 58, 62 and 64, for instance, broadening the scope of international activities of political parties by allowing a political party to become members of international party organizations, removing the prohibition of the payment of salaries and bonuses to party members and supporters during election and non-election periods for embodying their political will, expressing their political position and actively participating in the activities of the party, and deleting the requirement to base the electoral platforms of political parties on research and be consistent with the party platform; paras. 60 and 75, including by removing the ground for dissolution of a political party based on two years of inactivity following the non-presentation of candidates to the State Great Hural elections during two consecutive terms, or inactivity of its governing bodies for five years, while also more strictly referring to "serious threat" instead of "direct or serious threat" and removing the general reference to "constitutional order"; paras. 93 and 98, including by lowering the threshold from three per cent to one per cent of the total votes to access public funding, thereby benefitting non-parliamentary and newly established parties (*2022 Joint Opinion*, para. 93); and reducing from 60 to 50 per cent of public funding for specific purposes which is beneficial for smaller parties, which may struggle to cover basic operating costs if the great majority of public funding is used for other purposes (*2022 Joint Opinion*, para. 98).

24 See ODIHR, *Final Opinion on the Law on Political Parties of Mongolia*, May 2025, para. 24.

25 See *ODIHR-Venice Commission Joint Opinion on the Draft Law on Political Parties of Mongolia*, approved by the Council for Democratic Elections at its 73rd meeting (16 June 2022) and adopted by the Venice Commission at its 131st Plenary Session (Venice 17-18 June 2022).

26 See <ON THE PROCEDURE FOR COMPLIANCE WITH THE LAW ON POLITICAL PARTIES /REVISED WORDING/>.

22. From the information gathered during ODIHR's visit to Mongolia in April 2025, it remains unclear whether there is an intention to further postpone the implementation of the Law beyond December 2025, although most parliamentary parties informed ODIHR experts they are committed to adhering to this deadline. As mentioned by ODIHR in its Final Opinion, while establishing a solid foundation for implementing legislation is essential – and acknowledging the difficulties that certain political parties may face in reorganizing internally to comply with the Law – the question of further postponing its implementation should be carefully assessed and further delays may not necessarily constitute an effective solution. Furthermore, beyond ensuring technical compliance with the Law's provisions, public authorities should more effectively raise awareness among political parties about the new requirements in order to ensure legal certainty and smooth implementation.

23. It was also noted that a properly organized, participatory, inclusive lawmaking process for the adoption of the Law would have not only contributed to a higher quality Law but also would have significantly facilitated its implementation, ultimately contributing to increased public trust in democratic institutions. This also relates to any new initiatives aimed at amending the Law. To avoid unnecessary or impracticable laws and frequent substantive amendments, the need for developing new legislation should be thoroughly assessed at the outset of every policy- and lawmaking process. Additionally, the entire legislative cycle, including drafting, consultation, discussion, implementation, and evaluation, should be inclusive and participatory.

24. In light of the above, **it is strongly recommended that the further implementation of the Law, especially in the light of any further initiatives to amend the Law, be discussed with all relevant stakeholders**. Particular attention should be given to consulting the most affected actors – especially smaller political parties – and ensuring that they are provided with the necessary state support to prepare for and successfully implement the Law (see also Sub-Section 4 on the Procedure for Amending the Law *infra*).

3. Analysis of the Amendments Proposed by the Draft Law

3.1. Sources of funding of political parties

25. According to the Draft Law submitted for review, Article 27(8) of the Law on Political Parties should read as follows: *"[t]he total amount of public funding allocated from the state budget to a single party shall not exceed the total of incomes specified in Articles 36.3.1, 36.1.2, 36.1.3, and 36.1.4 of this law*." The current version of Article 27(8)) states that *"[t]he total amount of financing to be provided to one party from the state budget shall not* ***be two times more or more*** *than the sum of the income of the respective Party specified in sub-paragraphs 36.3.1, 36.3.2, 36.3.3 and 36.3.4 of this Law*".

26. First and foremost, it should be noted that the articles referenced in the proposed amendment—36.3.1, 36.1.2, 36.1.3, and 36.1.4—appear to be incorrect. They likely should refer instead to Articles 36.3.1, 36.3.2, 36.3.3, and 36.3.4 of the Law, which define party membership dues, elected member dues, donations from citizens, and donations from legal entities as income.

27. Secondly, the mechanism that ties the allocation and amount of public funding to a party's ability to raise private funds is already embedded in the current Law. Specifically, Article 27(8) provides that the total amount of state funding allocated to eligible political parties may not exceed twice the total amount received by the party in donations and

membership fees. The proposed amendment effectively reduces the funding ceiling currently set by Article 27(8).

28. It is also important to highlight that, in its Final Opinion, ODIHR expressed concerns regarding the matching funds mechanism outlined in Article 27(8) of the existing Law. ODIHR noted that such an approach may place smaller, new or less economically resourced parties at a disadvantage, as they often face difficulties in raising private funds—particularly in environments where there is a limited tradition of private political donations[27].

29. This approach risks undermining political pluralism by favoring dominant or wealthier parties, thereby reducing the competitiveness of smaller or emerging political groups. While a matching funding scheme may aim to promote public political engagement and strike a balance between public and private funding, the proposed further reduction in the cap on public funding tied to private contributions would likely have the opposite effect. Smaller parties, which generally receive fewer private donations, would face a relative reduction in state support, further limiting their ability to compete on an equal footing. Moreover, lowering the celling on public funding tied to private contributions within the matching fund system can also undermine the existing public mechanisms to increase diversity in politics[28], further limiting the ability of political parties to attract candidates from vulnerable groups.

30. As underlined in the 2020 Joint Guidelines, legislation should ensure that the formula for the allocation of public funding does not provide one political party with a monopoly position, or with a disproportionately high amount of funding compared to other parties.[29]

31. As mentioned in the 2022 ODIHR-Venice Commission Joint Opinion on the Draft Law of Mongolia on Political Parties,[30] "*party financing schemes, in particular, public funding, should aim to ensure that all parties, including opposition parties, small parties and newly established parties, can compete in elections in accordance with the principle of equal opportunities, thereby strengthening political pluralism and helping to safeguard the proper functioning of democratic institution*s". Overall, matching grants or similar funding mechanisms[31] may generally disadvantage parties whose supporters predominantly belong to less wealthy segments of the population. To prevent such risk, legislators could limit matching grants for small donations up to a certain maximum. At a minimum, such systems require strong oversight to ensure that reported donation amounts are not inflated and that all private donations are made with due respect to the regulatory framework governing them[32].

32. Moreover, ODIHR observers noted during the 2024 parliamentary elections that the existing public funding system "*disproportionately benefits the two largest parties*".[33] As

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27 See ODIHR, *Final Opinion on the Law on Political Parties of Mongolia*, May 2025, paras. 115-116.

28 *Ibid*, para.

29 See ODIHR-Venice Commission, *Guidelines on Political Party Regulation*, para. 241.

30 See *ODIHR-Venice Commission, Joint Opinion on the Draft Law on Political Parties of Mongolia* (20 June 2022), para. 78.

31 Matching grants or similar matching schemes generally tend to encourage political donations by individuals by providing an extra amount from public funds when individuals make a political contribution. An example of such system is the matched party financing system in Germany implemented under Section IV and V of the Political Parties Act ("Parteiengesetz," 'ParteienG') in 1967. According to this scheme, the amount of public financing received cannot exceed the amount of private funds raised by the party itself – that is, i.e., parties must obtain at least 50 percent of their funding from sources other than the state. Donations from abroad are permissible up to EUR 1,000 (USD 1,110), however the donor must be a German citizen or a company with a majority German ownership. Anonymous donations of more than EUR 1,000 are not allowed.

32 See ODIHR-Venice Commission, *Guidelines on Political Party Regulation*, para. 240.

33 ODIHR, Mongolia - Needs Assessment Mission Report on the Parliamentary Elections of 28 June 2024, 26 April 2024, p. 10.

highlighted in the 2022 ODIHR-Venice Commission Joint Opinion,[34] this inequality is rooted in the criteria used for fund distribution.

33. Therefore, **it is recommended to reconsider the amendments to Article 27(8) of the Law, as lowering the ceiling on public funding tied to private contributions within the matching fund system risks reducing overall public financial support to smaller, or newly established political parties or political parties whose platforms represent less wealthy segments of society, further limiting their ability to compete on an equal footing.** Furthermore, since such funding model may leave political parties without access to funding in the absence of private donations, as recommended in the Final Opinion[35], it would be advisable to consider a system that does not fully withhold public funding in the absence of private contributions. Instead, political parties should receive a baseline level of public funding—proportional to the number of votes obtained—regardless of whether they secure private contributions.

34. The proposed by the Draft Law amendments also include the repeal of Article 35(4) of the Law on Political Parties, which currently limits a political party's income from its own assets to no more than 50 percent of the public funding it receives.

35. Regarding income from political parties' assets, as noted in the Joint Guidelines on Freedom of Association, "*associations are free to engage in any lawful economic, business or commercial activities in order to support their not-for-profit activities, without any special authorisation being required, while at the same time being subject to any licensing or regulatory requirements generally applicable to the activities concerned. In addition, due to the not-for-profit nature of associations, any profits obtained through such activities should not be distributed among their members or founders, but should instead be used for the pursuit of their objectives*".[36] Consequently, a political party may engage in some business activities providing that all income generated by such activities must be used exclusively for the pursuit of the party's objectives, and must not be distributed among the party's founders or members. At the same time, as mentioned in the 2022 Joint Opinion, political parties in Mongolia are not equal in terms of assets, especially small or newly established political parties[37]. In this respect ODIHR welcomed the relevant provision of the Draft Law on Political Parties which provided for a maximum amount of such annual income corresponding to 25 percent of the public funding provided to the party. In the current Law this percentage was increased to 50.

36. It is to be noted that income generated from party-owned assets or businesses constitutes a legitimate and sometimes important source of funding for political parties. While it is welcome to separate this funding source from the amount of public funding received, it is important to introduce some complementary measures—such as limits or enhanced disclosure requirements. Without some form of limitation, parties with substantial economic assets could potentially dominate the political landscape, making it more difficult for smaller or less well-resourced parties to compete on equal terms.

37. **It is therefore recommended to avoid a full repeal of the limitation on political parties' income derived from their own assets while considering defining a certain threshold or introducing complementary disclosure and reporting requirements.**

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[34] ODIHR-Venice Commission Joint Opinion on the Draft Law of Mongolia on Political Parties, CDL-AD(2022)013, 20 June 2022, para. 95.

[35] See ODIHR, *Final Opinion on the Law on Political Parties of Mongolia*, May 2025, para. 86.

[36] OSCE/ODIHR and Venice Commission, *Guidelines on Freedom of Association* (2015), CDL-AD(2014)046, paras. 191-194.

[37] See *ODIHR-Venice Commission, Joint Opinion on the Draft Law on Political Parties of Mongolia* (20 June 2022), para. 88.

RECOMMENDATION A.

1. To reconsider the amendments to Article 27(8) of the Law, as lowering the ceiling on public funding tied to private contributions within the matching fund system risks reducing overall public support, especially to smaller or newly established political parties or political parties whose platforms represent less wealthy segments of society, further limiting their ability to compete on an equal footing.
2. To avoid a full repeal of the limitation on political parties' income derived from their own assets while considering defining a certain threshold or introducing complementary disclosure and reporting requirements.

3.2. Reporting requirements

38. Most political finance regulatory frameworks require political parties, candidates, and, in some cases, third parties to report their financial transactions. International and regional standards emphasize the critical importance of transparency, recognizing it as a cornerstone of effective political finance regulation. The disclosure of funding sources and expenditure practices serves to ensure the legality of financial activities and is consistent with the principles set out in the UNCAC and the CoE Committee of Ministers' Recommendation Rec(2003)4. The 2020 Joint Guidelines on Political Party Regulation further highlight that transparency in party and campaign financing is essential for protecting voters' rights and preventing corruption.

39. In many countries, a widely recognized good practice involves managing all contributions and expenditures through a designated bank account under the supervision of an appointed financial agent. This approach enhances the accuracy of reported financial transactions and supports the oversight body's ability to monitor party financing effectively. As highlighted in the ODIHR Final Opinion, "[a]ccording to Article 26(7) of the current Law, all financing sources received by political parties must be deposited in the party's single bank account, in line with good practice"[38].

40. According to the Draft Law, Article 26(7) is to be amended to read: *"[a] party shall receive income specified in Article 26.1.1 of this law only through a single bank account."* This amendment could be interpreted as limiting the use of the dedicated bank account exclusively to the receipt of public funds, thereby reversing a good practice previously commended by ODIHR in its Final Opinion.

41. The use of a centralized bank account is a valuable mechanism for ensuring the traceability of financial transactions and facilitating effective regulatory oversight. However, by limiting this requirement to public funding alone— without clarifying how private sources such as donations, membership fees, or income from commercial activities should be handled —the proposed amendment would substantially weaken the transparency objective that the current wording of Article 26(7) seeks to achieve. Additionally, the provision lacks clarity regarding its applicability to political parties that do not receive public funding, creating ambiguity that could inadvertently enable unreported income streams and diminish the overall effectiveness of the measure.

42. To align with good practice, **the existing version of Article 26(7) should be retained, explicitly requiring that all income—regardless of its source—be channeled through**

[38] See ODIHR, *Final Opinion on the Law on Political Parties of Mongolia*, May 2025, para. 126.

a single bank account. This approach reinforces financial transparency and helps close potential loopholes.

43. Under current Article 36 of the Law on Political Parties, political parties must record all financial information about their routine activities. Article 36(3) lists all income that must be recorded and reported in the party's financial statement, while Article 36(4) outlines all expenses that must be included. The party's assets must also be reported (Article 36(6)).

44. Moreover, in accordance with the Law, party affiliated organizations shall issue its financial statement as per the requirements specified in Chapter Six of this Law and shall submit it to the respective party and the central election body. Furthermore, as noted in ODIHR Final Opinion[39], it is commendable that financial statements were to be consolidated across party branches, structural units, and affiliated entities, and that the GEC would retain these statements for 10 years - a step seen as enhancing long-term accountability[40].

45. *The proposed amendments to Article 33(12) state that "[a] party-affiliated organization shall prepare its financial report in accordance with the requirements specified in Chapter Six of this law and submit it to the party*." While the obligation for affiliated organizations to prepare financial reports remains, the amendment proposes to remove the requirement to submit these reports to the central election body— GEC. By limiting report submission to the party alone and excluding oversight by an independent body such as the GEC and publication of this information, this amendment risks weakening transparency and accountability in political finance significantly. A clear justification for this change should be provided, including an explanation of how external scrutiny will be maintained under the revised system.

46. Furthermore, although the Draft Law (specifically the proposed new wording of Article 36(14)) retains the obligation to consolidate financial information from internal party structures, they notably exclude affiliated organizations from this requirement. Consequently, not only are affiliated entities no longer required to submit their reports directly to the GEC (as highlighted above regarding Article 33(12)), but their financial information is also excluded from the consolidated reports submitted by political parties—despite their continued obligation to submit reports to the party. This change constitutes a regression in the transparency framework and may create significant gaps in the oversight of political party finances—as affiliated organizations could be used to channel unregulated or illegal resources or to conduct activities that evade existing regulations and oversight[41].

47. **To enhance transparency and accountability in political financing, it is recommended to reconsider the proposed amendments to Articles 33(12) and 36(14) of the Law on Political Parties by ensuring that the financial information of organizations affiliated with political parties is incorporated into party financial reports and remains subject to independent oversight by the General Election Commission**.

[39] *Ibid*, para. 129.

[40] See *ODIHR-Venice Commission, Joint Opinion on the Draft Law on Political Parties of Mongolia* (20 June 2022), para. 100.

[41] See also OSCE/ODIHR, Final Report on Parliamentary Elections, 28 June 2024, ODIHR Election Observation Mission, p. 17.

RECOMMENDATION B.

1. To maintain the current wording of Article 26(7) of the Law on Political Parties, which explicitly requires that all income—regardless of its source—be routed through a single bank account, while promoting financial transparency and preventing potential loopholes.
2. To enhance transparency and accountability in political financing, reconsider the proposed amendments to Articles 33(12) and 36(14) of the Law on Political Parties by ensuring that the financial information of organizations affiliated with political parties is incorporated into party financial reports and remains subject to independent oversight by the General Election Commission.

4. PROCEDURE FOR AMENDING THE LAW

48. The importance of inclusive and open lawmaking process should be highlighted. In paragraph 5.8 of the 1990 OSCE Copenhagen Document, OSCE participating States have committed to ensure that legislation will be adopted at the end of a public procedure[42]. Moreover, key commitments specify that *"[l]egislation will be formulated and adopted as the result of an open process reflecting the will of the people, either directly or through their elected representatives*".[43] The *ODIHR Guidelines on Democratic Lawmaking for Better Laws* (2024) underline the importance of evidence-based, open, transparent, participatory and inclusive lawmaking process, offering meaningful opportunities to all interested stakeholders to provide input at all its stages[44].

49. Effective consultations in the drafting of laws, as outlined in the relevant OSCE commitments, need to be inclusive, involving both the general public and stakeholders with a particular interest in the subject matter of the draft legislation, in this case all political parties as well as civil society organizations. Sufficient time should also be provided to ensure that the consultation process is meaningful, allowing adequate time to stakeholders to prepare and submit recommendations on draft legislation throughout the legislative process.[45]

50. It is welcome in this respect that the Parliament is undertaking an assessment of the proposed amendments to the Law.

51. In light of the above, **the public authorities are encouraged to ensure that any future amendments to the Law and electoral legal framework in general are preceded by a proper impact assessment and subjected to inclusive, extensive, effective and meaningful consultations throughout the legislative process, including with representatives of various political parties, academia, civil society organizations, which should enable equal opportunities for women and men to participate**. According to the principles stated above, such consultations should take place in a timely manner, at all stages of the lawmaking process, including before Parliament. As a principle, accelerated legislative procedure should not be used to pass such types of legislation. As an important element of good lawmaking, a consistent monitoring and evaluation system on the implementation of legislation should also be put in place that

42 See *1990 OSCE Copenhagen Document*, para. 5.8.
43 See 1991 *OSCE Moscow Document*, para. 18.1.
44 See *ODIHR Guidelines on Democratic Lawmaking for Better Laws* (January 2024), in particular Principles 5, 6, 7 and 12. See also *Venice Commission, Rule of Law Checklist*, CDL-AD(2016)007, Part II.A.5.
45 See *ODIHR Guidelines on Democratic Lawmaking for Better Laws* (January 2024), paras. 169-170. See also ODIHR, *Assessment of the Legislative Process in Georgia* (30 January 2015), paras. 33-34. See also ODIHR, *Guidelines on the Protection of Human Rights Defenders (2014)*, Section II, Sub-Section G on the Right to Participate in Public Affairs.

would efficiently evaluate the operation and effectiveness of the draft laws, once adopted.[46]

[END OF TEXT]

46 See *ODIHR Guidelines on Democratic Lawmaking for Better Laws* (January 2024), para. 23. See e.g., OECD, International Practices on Ex Post Evaluation (2010).