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OPINION ON THE LAW ON PRESIDENTIAL ELECTION OF MONGOLIA AND COHERENCE OF THE ELECTORAL FRAMEWORK AND POLITICAL PARTY REGULATIONS

MONGOLIA

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EXECUTIVE SUMMARY AND KEY RECOMMENDATIONS

This Legal Opinion has been prepared in response to the request by the General Election Commission of Mongolia (GEC) for a legal review of the Law on the Presidential Election (Law), as well as an assessment of the coherence between regulations on campaign and political party financing and reporting in electoral legislation and in the Law on Political Parties. In line with ODIHR methodology, the Opinion analyses compliance with international human rights standards and OSCE human dimension commitments.

Generally, the Law is detailed and outlines fundamental principles of suffrage, electoral integrity, and procedural safeguards. However, certain provisions remain overly general or leave important aspects unregulated, which may result in inconsistent interpretation or implementation.

Specifically, while the Law provides a solid framework for voting and candidacy rights, several provisions require revision to align with international obligations and good practice. Blanket restrictions on voting rights for persons with disabilities and prisoners should be replaced with narrowly tailored, proportionate measures, or removed. Candidacy rights also include some restrictive and potentially discriminatory criteria, such as requirements based on “native” nationality, long residency, or intellectual disability, as well as limiting candidate nominations to parliamentary parties only. Additionally, the fragmentation of key definitions across multiple articles reduces coherence and should be addressed through consolidation.

The Law establishes a clear hierarchical framework for election administration, but review is needed to strengthen independence and transparency, as the designation of local governors and police as chairs or members of election committees raises concerns about neutrality and the perception of political influence. To enhance transparency, preliminary and final election results should be published in a disaggregated form, including at local levels. Further areas needing attention include the system of listing candidates on ballots according to party registration, proxy voting procedures and insufficient provisions for effective legal redress.

Campaign finance regulation also requires strengthening. Clearer rules on public funding for presidential campaigns could level the playing field and encourage women’s participation. While dedicated election accounts exist, unrestricted donations, delayed reporting, and limited pre-election disclosure reduce transparency and accountability. Broad restrictions on foreign and new legal entity donations may unnecessarily limit participation. Involvement of third parties remains unregulated, and oversight by the GEC and the National Audit Office (NAO) is fragmented, with weak investigative powers and minimal sanctions.

As part of broader reform, political party and campaign finance legislation has to be reviewed to improve coherence and alignment across the legal framework. Inconsistencies and fragmented regulations contribute to uncertainty in implementation and enforcement, leading to unequal treatment of political actors and undermining transparency and accountability. Key areas for improvement include the explicit recognition of public funding across all laws, consistent regulation of in-kind donations, and uniform application of donation limits. Anti-circumvention measures, such as prohibiting “straw donations,” should also be extended to election laws. Reporting and disclosure requirements should be standardized, clarifying responsibilities for verifying donations and ensuring timely public access to financial and campaign reports. Oversight functions, currently divided between the GEC and the NAO, require clearer coordination or consolidation within a single strengthened body empowered with investigative and enforcement authority.

Lastly, consideration should be given to strengthening mechanisms for gender representation in candidate nomination and other areas envisaged by the Law to better reflect the constitutional principle of equality and to promote and enhance the participation of women in political life.

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

- To remove overly broad restrictions on suffrage rights based on intellectual disability and convictions.
- To allow candidates to run independently and reconsider the five-year residency requirement; to allow candidates to withdraw their candidacies up to a clearly defined deadline prior to the finalization and printing of ballots.
- To strengthen transparency by requiring proactive publication of committee decisions, meeting minutes, and member attendance records on the respective website; to require the publication of preliminary and final election results in a disaggregated form, including on the level of precincts.
- To regulate the timing, duration, and procedures for campaigns in all rounds of voting, re-voting, or re-elections; to afford political parties greater autonomy and discretion in determining the structure, modalities, and functioning of their campaign headquarters.
- To establish clear, detailed procedures for monitoring and auditing the use of public resources, with transparent reporting, independent oversight, and strict penalties for any preferential treatment by officials.
- To guarantee equitable access to state funding for all candidates, with particular attention to those from underrepresented groups. Further regulation could be considered to provide financial incentives for political parties that nominate women candidates.
- To extend some forms of regulation, including obligations and restrictions comparable to those applicable to parties and candidates, to third parties involved in the campaign; to introduce a requirement for campaign finance reporting before election day to enhance transparency and accountability.
- To centralize political party finance oversight functions within a single body with enhanced capacity to detect and address illegal sources of funding, thereby ensuring greater transparency and accountability in political finance operations; To introduce fines with gradations, ensuring the highest penalties apply only for the most severe offenses.
- To streamline the dispute resolution provisions, including establishing clear and timely deadlines for the resolution of electoral disputes to ensure due process.

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

TABLE OF CONTENTS

| | |
|---|-----------|
| I. INTRODUCTION | 5 |
| II. SCOPE OF THE OPINION | 5 |
| III. LEGAL ANALYSIS AND RECOMMENDATIONS | 6 |
| 1. Relevant International Human Rights Standards and OSCE Human Dimension Commitments | 6 |
| <i>1.2 Standards and Commitments Related to Political Parties</i> | 8 |
| 2. General Principles | 9 |
| 3. Electoral System | 10 |
| 4. Suffrage Rights and Registration | 11 |
| <i>4.1 Right to vote</i> | 11 |
| <i>4.2 Voter registration</i> | 12 |
| <i>4.3 Candidacy rights</i> | 14 |
| <i>4.4 Candidate registration</i> | 16 |
| 5. Election Administration | 17 |
| <i>5.1 Structure and composition</i> | 17 |
| <i>5.2 Organization of the work of election administration</i> | 18 |
| <i>5.3 Transparency</i> | 18 |
| 6. Polling | 19 |
| <i>6.1 Ballot paper</i> | 19 |
| <i>6.2 Secrecy of the vote</i> | 19 |
| <i>6.3 Election Day</i> | 20 |
| <i>6.4 Election observation</i> | 21 |
| 7. Election Campaign | 22 |
| <i>7.1 Campaign in media</i> | 24 |
| <i>7.2 Duration of a campaign</i> | 26 |
| <i>7.3 Use of administrative recourses</i> | 26 |
| <i>7.4 Equality provisions</i> | 28 |
| 8. Campaign Finance | 28 |
| <i>8.1 Funding of a presidential election campaign</i> | 28 |
| <i>8.2 Expenditures</i> | 32 |
| <i>8.3 Reporting, oversight and sanctions</i> | 33 |
| 9. Electoral Dispute Resolution | 35 |
| 10. Coherence of provisions pertaining to Law on Political parties and Electoral Legislation | 36 |
| <i>10.1 Funding</i> | 37 |
| <i>10.3 Reporting requirements</i> | 38 |
| <i>10.4 Oversight</i> | 40 |
| 11. Procedure for Adopting the Law | 40 |

I. INTRODUCTION

1. On 2 July 2025, the OSCE Office for Democratic Institutions and Human Rights (hereinafter “ODIHR”) received a request from the General Election Commission (GEC) of Mongolia for a legal review of the Law on the Presidential Election of Mongolia” (hereinafter “Law”), as well as comparative analyses on the coherence between the regulations on campaign and political party financing and reporting.
2. On 12 September 2025, ODIHR responded to this request, confirming the Office’s readiness to prepare an analysis of the compliance of the Law with international human rights standards and OSCE human dimension commitments. The Opinion also focuses on the coherence between the regulations on campaign and political party financing and reporting, especially in light of the recent amendments to the Law of Political Party.
3. This Opinion was prepared in response to the above request. ODIHR conducted this assessment within its mandate to assist the OSCE participating States in the implementation of their OSCE human dimension commitments.¹

II. SCOPE OF THE OPINION

4. This Opinion focuses exclusively on the Law submitted for review. Thus limited, the Opinion does not constitute a full and comprehensive review of the related other laws nor of the entire electoral legal framework. The Opinion also focuses on the coherence between the regulations on campaign and political party financing between the Law on Political Parties, and the electoral legislation, the Law on Parliamentary Elections, the Law on Presidential Elections, and the Law on Local elections.
5. The Opinion raises key issues and indicates areas of concern. In the interest of conciseness, it focuses more on those provisions that require amendments or improvements rather than on the positive aspects of the Law. The ensuing legal analysis is based on international and regional human rights and rule of law standards, norms, and recommendations, as well as relevant OSCE human dimension commitments.
6. Moreover, in accordance with the Convention on the Elimination of All Forms of Discrimination against Women² (hereinafter “CEDAW”) and the 2004 OSCE Action Plan for the Promotion of Gender Equality³ and commitments to mainstream gender into OSCE

¹ See, especially, 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.” See also 1998 [Oslo Ministerial Declaration](#), MC.DOC/1/98, stating: “Expression should be given to support for the enhancement of OSCE electoral assistance work and the strengthening of internal procedures to devise remedies against infringements of electoral rules, with the participating States invited to provide the ODIHR in a timely fashion with draft electoral laws and draft amendments to these laws for review so that possible comments can be taken into account in the legislative process”; and [1999 Istanbul Document](#) which states: “... appreciate the role of the ODIHR in assisting countries to develop electoral legislation in keeping with OSCE principles and commitments”.

² See [UN Convention on the Elimination of All Forms of Discrimination against Women](#) (CEDAW), adopted by General Assembly resolution 34/180 on 18 December 1979.

³ See [OSCE Action Plan for the Promotion of Gender Equality](#), adopted by Decision No. 14/04, MC.DEC/14/04 (2004), para. 32.

activities, programmes and projects, the Opinion integrates, as appropriate, a gender and diversity perspective.

7. This Opinion is based on an unofficial English translation of the Law. Errors from translation may result. Should the Opinion be translated in another language, the English version shall prevail.
8. In view of the above, ODIHR would like to stress that this Opinion 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

9. This Opinion has been prepared in consideration of applicable international human rights and democratic governance obligations, as well as the OSCE human dimension commitments. The main relevant international standards, commitments, and good practice related to the analysis of the Law include Article 25 of the International Covenant on Civil and Political Rights (ICCPR),⁴ with the UN Human Rights Committee’s General Comment 25, obliging the States Parties to “[...] take effective measures to ensure that all persons entitled to vote can exercise the right.” In addition, under Article 2 of the ICCPR the States Parties undertook to “respect and to ensure to all individuals within [their] territory and subject to [their] jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.”
10. In addition to international human rights instruments, the United Nations Convention against Corruption (UNCAC) is also a legally binding document of relevance, particularly in the context of elections. Pursuant to its Article 5 (1), each State Party is obliged to “develop and implement or maintain effective, coordinated anti-corruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.” The UNCAC specifically addresses preventive measures aimed at curbing corruption in public life. In this respect, Article 7(4) calls on States Parties to “endeavour to adopt, maintain and strengthen systems that promote transparency and prevent conflicts of interest,” in accordance with the fundamental principles of their national legal systems. In the context of elections, this obligation supports the implementation of transparent campaign financing, merit-based selection of candidates, and mechanisms that safeguard against the undue influence of vested interests. Furthermore, Article 8 underscores the importance of promoting integrity, honesty, and responsibility among public officials (paragraph 1) and encourages the application of codes or standards of conduct for the proper and ethical performance of public functions (paragraph 2). These provisions are particularly pertinent in ensuring the credibility, fairness, and accountability of electoral processes.
11. Other applicable standards can be found in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) General Recommendation #23: Political and

⁴ See [International Covenant on Civil and Political Rights](#) (ICCPR) adopted by the UN General Assembly by resolution 2200A (XXI) of 16 December 1966.

Public Life. The most recent, CEDAW Recommendation No. 40 establishes a global roadmap to achieve fifty-fifty gender parity in decision-making systems.⁵ In addition, Article 29 of the United Nations Convention on the Rights of Persons with Disabilities (CRPD)⁶ obliges States Parties “a) To ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected [...]; b) To promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs [...].”

12. The European Convention on Human Rights (ECHR) sets standards “to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.”⁷
13. The OSCE human dimension commitments on democratic institutions, paragraph 7.6 commits OSCE participating States to “respect the right of individuals and groups to establish, in full freedom, their own political parties or other political organizations and provide such political parties and organizations 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.” In addition, participating States have committed to protecting the right to freedom of association (paragraph 9.3) and the freedom of assembly (paragraph 9.2). The Copenhagen Document also places strong emphasis on electoral integrity. Paragraph 7.4 obliges States to ensure that “votes are cast by secret ballot or by equivalent free voting procedure, and that they are counted and reported honestly with the official results made public.” Paragraph 7.3 highlights the right of citizens to “take part in the governing of their country, either directly or through representatives freely chosen by them through fair electoral processes.”
14. These standards and commitments are further reinforced by guidelines and international good practices. This includes the Venice Commission’s 2002 Code of Good Practice in Electoral Matters,⁸ the Venice Commission’s 2020 Report on Electoral Law and Electoral Administration in Europe,⁹ the Venice Commission’s 2011 Report on Out-of-Country Voting,¹⁰ and the case law of the European Court of Human Rights (ECtHR). Although Mongolia is not a member of the Council of Europe or the Venice Commission, the referenced guidance is used, where relevant, to complement and contextualize OSCE political commitments commonly relied upon in electoral analysis.
15. The recommendations of this Opinion will refer, as appropriate, to other non-binding documents. These include the 2013 ODIHR Guidelines for Reviewing a Legal Framework for Elections,¹¹ as well as the ODIHR Handbooks on the Observation of the Election Administration, Election Dispute Resolution, Election Campaigns and Political Environments, Campaign Finance, Electoral Campaigns on Social Networks, Media Monitoring, and on Observing and Promoting the Electoral Participation of Persons with Disabilities.¹² Likewise, this Opinion takes into account reports from ODIHR election observation activities in Mongolia.

⁵ See the CEDAW [General recommendation No. 40 \(2024\)](#) on the equal and inclusive representation of women in decision-making systems.

⁶ See the [UN Convention on the Rights of Persons with Disabilities \(CRPD\)](#), adopted on 13 December 2006 during the sixty-first session of the General Assembly by resolution A/RES/61/106.

⁷ See Protocol 1 to the [Council of Europe’s Convention for the Protection of Human Rights and Fundamental Freedoms](#).

⁸ See Venice Commission, [Code of Good Practice in Electoral Matters](#).

⁹ See the Venice Commission’s 2020 [Report on Electoral Law and Electoral Administration in Europe](#).

¹⁰ See the Venice Commission’s 2011 [Report on Out-of-Country Voting](#).

¹¹ See ODIHR [Guidelines for Reviewing a Legal Framework for Elections](#).

¹² See all ODIHR [publications](#).

16. Lastly, the stability of electoral law is a key element of a credible electoral process, “which is itself vital to consolidating democracy. Rules which change frequently, and especially rules which are complicated, may confuse voters. Above all, voters may conclude, rightly or wrongly, that electoral law is simply a tool in the hands of the powerful, and that their own votes have little weight in deciding the results of elections.”¹³ Accordingly, the fundamental elements of electoral law, in particular the electoral system, membership of electoral commissions, and the drawing of constituency boundaries, should not be open to amendment less than one year before an election, or should be written in the constitution or at a level higher than ordinary law, or the old system should apply in the next election, at least if it takes place within the coming year.¹⁴ Changes in the legal framework too close to the election may also adversely affect electoral preparations, leaving the implementing authorities insufficient time to plan and adjust their activities. At the same time, the principle of stability of electoral law should not be invoked to maintain a situation contrary to international electoral standards, to prevent amendments in accordance with these standards based on consensus between government and opposition and on broad public consultations, or to prevent the implementation of decisions by national constitutional courts or supreme courts with equivalent jurisdiction, international courts or recommendations by international organisations.¹⁵

1.2 Standards and Commitments Related to Political Parties

17. Fundamental rights of political parties and their members are primarily set out in Articles 19 and 22 of the ICCPR (freedom of expression, opinion, and association) and Article 25 (participation in public affairs).¹⁶ Rules on financing parties and campaigns are also reflected in Article 7(3) of the UNCAC.¹⁷ The CEDAW is relevant for gender equality, notably Articles 4 (temporary measures) and 7 (non-discrimination in politics).¹⁸ Article 29 of the CRPD further ensures participation of persons with disabilities in political and public life.¹⁹
18. At the regional level, Article 11 of the ECHR protects freedom of association for political parties, complemented by Article 10 (freedom of expression) and Article 3 of Protocol 1.²⁰ ECtHR case law guides Council of Europe (CoE) Member States in aligning party laws with ECHR rights. Although Mongolia is not a party to the ECHR and is not bound by ECtHR jurisprudence, relevant case law is referenced to illustrate established principles and to inform the recommendations offered in this opinion.
19. According to paragraph 7.6 of the 1990 OSCE Copenhagen Document, OSCE participating States committed to ensuring that individuals and groups can freely establish political parties and receive legal guarantees for equal treatment and fair competition.²¹ Other OSCE commitments relevant to political party regulation under the Copenhagen Document include the protection of the freedom of association (paragraph 9.3), the freedom of opinion and expression (paragraph 9.1) and obligations on the separation of the State and the party

¹³ See Venice Commission, [Code of Good Practice in Electoral Matters](#), II.2.b. See also [Revised Interpretative Declaration on the Stability of the Electoral Law](#), CDL-AD(2024)027.

¹⁴ *Ibid.*

¹⁵ See Venice Commission, [Revised Interpretative Declaration on the Stability of the Electoral Law](#), CDL-AD(2024)027, Part II.B.2.

¹⁶ See [ICCPR](#).

¹⁷ See [UN Convention against Corruption \(CAC\)](#), adopted by the General Assembly on 31 October 2003, by resolution 58/4. The Convention entered into effect on 14 December 2005. See also the [Additional Protocol to the Criminal Law Convention on Corruption](#), adopted on 15 May 2003.

¹⁸ See [CEDAW](#).

¹⁹ See the [CRPD](#).

²⁰ See the [Council of Europe’s Convention for the Protection of Human Rights and Fundamental Freedoms](#) entered into force on 3 September 1953.

²¹ See the [1990 OSCE Copenhagen Document](#).

(paragraph 5.4). Additionally, Ministerial Council Decision 7/09 on women’s participation in political and public life is of interest.²²

20. These standards and commitments are supplemented by various guidance and recommendations from the UN, CoE and the OSCE. This includes: 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,²³ and the CEDAW General Recommendation No. 23: Political and Public Life,²⁴ 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”). The ensuing recommendations will also refer to the ODIHR and Venice Commission Joint Guidelines on Political Party Regulation.²⁵

2. GENERAL PRINCIPLES

21. In accordance with the Constitution of Mongolia, articles 5 and 6 of the Law set out the fundamental principles of suffrage and the procedures governing the presidential election. Article 5 guarantees the right of all eligible citizens to participate in elections without discrimination and ensures the right of native citizens, meeting constitutional and legal requirements, to be elected. Furthermore, the Law prohibits any unlawful restriction of electoral rights and attempts to prevent the free expression of the voter’s will (Articles 5.6 and 5.7).
22. Article 6 outlines the core principles, emphasizing citizens’ right to vote and run for office. Elections must be universal, with each voter directly participating through secret ballot. State and local authorities, officials, candidates, political parties, and other entities involved in organizing elections are required to uphold the rule of law, ensure transparency and maintain integrity.
23. While it is welcomed that principles underpinning democratic elections are separately outlined in the Law, the list is not exhaustive. The Law provides only a general framework and leaves some important elements of democratic elections unspecified. Having only some elements listed and elaborated upon related to what defines upholding the rule of law, ensuring transparency and equality, and maintaining integrity may lead to selective and, at the same time, arbitrary interpretation. There are other elements that may impact a genuine conduct of elections, including the composition and operation of the election administration, equal and fair treatment of candidates before the law, as well as enabling voters to discuss and cast their vote free of fear of retribution. Article 25 of the ICCPR sets out specific provisions dealing with the right of citizens to take part in the conduct of public affairs as voters or as candidates for election. Genuine periodic elections in accordance with paragraph (b) “are essential to ensure the accountability of representatives for the exercise of the legislative or executive powers vested in them.”²⁶ **Given that the aim of Article 6 of the Law is to lay out election principles, it is recommended to expand it to include other crucial electoral aspects as well.**
24. According to Article 8.5, the parliament can postpone an election in case of emergency circumstances under Articles 25.2 and 25.3 of the Constitution. The Law also envisages the

²² See the [OSCE Ministerial Council Decision 7/09](#), 2 December 2009, Women’s participation in political and public life.

²³ 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.

²⁴ See the CEDAW [General Recommendation No. 23](#): Political and Public Life.

²⁵ See the [ODIHR and the Venice Commission Joint Guidelines on Political Party Regulation](#) (2nd edition, 2020).

²⁶ See also Article 3 of the First Additional Protocol to the ECHR; paragraph 7.1 of the [1990 OSCE Copenhagen Document](#).

timelines for calling and holding new elections after the end of martial law and the state of emergency. Article 15 of the ECHR and Article 4 of the ICCPR allow derogation from the obligations to guarantee most of the fundamental rights, including electoral rights, in time of war or other public emergency threatening the life of the nation”. Emergency measures should respect certain general principles which aim to minimize the damage to fundamental rights, democracy, and the rule of law. The measures are thus subject to general conditions of necessity, proportionality, and temporariness.²⁷

25. According to Article 8.6, if emergency circumstances arise after an election date has been set, the parliament must suspend the regular election. **It is assumed that in such cases the entire process will restart where it was halted; however, for legal clarity, this should be specified.** This safeguard is important because suspending, rather than terminating, the process helps protect the significant investments already made by candidates in their campaigns. If the campaign has already begun, contestants may have invested heavily in outreach, logistics, and publicity. Suspending the electoral process provides an opportunity for these efforts to be resumed once conditions permit, rather than forcing candidates to restart entirely. This approach is especially relevant in cases such as a second round of elections, where termination would unnecessarily duplicate costs and undermine continuity.
26. The Law, however, does not envisage a circumstance where a state of emergency may arise after the completion of the election but before the final results are summarized. In such cases, it is important that the safety of the election materials, along with administration, is taken into consideration in addition to voters and other stakeholders.

3. ELECTORAL SYSTEM

27. There are different electoral systems, and multiple options on how they are presented across the OSCE region. They have different advantages and shortcomings; however, the choice of an electoral system is a sovereign decision of a state through its political system, provided that international obligations, guaranteeing, in particular, universal, equal, free and secret suffrage, are respected.
28. Article 10 of the Law establishes that the entire territory of Mongolia constitutes a single nationwide constituency for the presidential election. For administrative purposes, this national constituency is subdivided into districts and precincts to facilitate polling and vote counting. According to Article 4, presidential elections may be regular (held every six years), non-regular (triggered by dismissal, death, or resignation), or re-elections (when neither of the two candidates in the run-off secures a majority in the second round). The system consists of two rounds: in the first, citizens vote directly through universal, free, and secret suffrage; in the second, the candidate who receives a majority of votes is confirmed as president.
29. Article 74 mandates a non-regular election be held within four months if the president’s term ends prematurely. Article 76 allows for the invalidation of polling if it occurs in unauthorized locations or if mobile ballot boxes are compromised in ways that significantly affect results. In such cases, a re-voting must be organized within ten days, involving only the affected voters. While this provision ensures procedural integrity, given Mongolia’s vast geography and diverse population distribution, logistical disparities between urban and rural precincts, and the short timeframe for organizing re-voting could compromise the quality of electoral administration, transparency, and voter preparedness. **It is important that re-voting**

²⁷ See also the Venice Commission - [Respect for Democracy, Human Rights and the Rule of Law](#), CDL-PI(2020)005rev, 26 May 2020.

procedures uphold the principle of equal suffrage, as guaranteed by Article 25(b) of the ICCPR.

30. In addition, in terms of invalidation of results, as envisaged by Article 76, General Election Commission (GEC) is the body authorised to declare the results invalidated. Good practice recommends that the appeal bodies should have authority to annul voting in a polling station if irregularities may have affected the outcome.²⁸ Determining whether irregularities at a polling station are significant enough to affect its results, and whether those results in turn influence the overall election outcome, requires careful interpretation and contextual judgment. **In this respect, it is important that any such decision is subject to judicial review.**
31. Furthermore, Article 78 stipulates that if fewer than fifty percent of registered voters participate in the election, additional polling must be conducted in precincts that failed to reach the threshold. However, only those who did not vote in the first polling may participate in this supplementary round, rather than a repeat of the whole voting process for that precinct. This provision seeks to encourage voter turnout and legitimize electoral outcomes, yet it may unintentionally introduce inconsistencies in voter equality. Restricting participation in additional polling to non-voters could lead to unequal treatment between citizens who voted initially and those who abstained, thereby conflicting with the ICCPR's requirement of universal and equal suffrage. **The Law should ensure that measures intended to increase turnout do not undermine the equal value of every vote or compromise the inclusiveness of the electoral process.**

4. SUFFRAGE RIGHTS AND REGISTRATION

4.1 Right to vote

32. According to Article 5, every citizen of Mongolia who has reached the legal voting age shall have the right to vote in elections on the basis of universal and equal suffrage, without discrimination on the grounds of ethnicity, language, race, sex, social origin, status, property, employment, occupation, religion or belief, political opinion, education, or any other status. According to Article 3.1.8. "eligible voting citizen" is defined as a Mongolian citizen who has attained the age of 18 and has full legal capacity. Article 3.1.1 also defines the attainment of the specified age on or before the election day as counted from the date of their birth.
33. While Article 5 rightly enshrines the principle of universal and equal suffrage and provides a comprehensive non-discrimination guarantee, the coherence of the framework is weakened by the distribution of key definitions across different articles. For example, Article 5 sets out the general right to vote, but the criteria for an "eligible voting citizen" are placed in Article 3.1.8, while the calculation of voting age is clarified separately in Article 3.1.1. This structure creates unnecessary fragmentation and may reduce legal clarity. **From a legislative drafting perspective, it would be preferable to consolidate these provisions, either by embedding the definition of an eligible voter directly into Article 5 or by systematically cross-referencing definitions, to ensure internal consistency and accessibility of the Law.**
34. The right to vote is restricted to citizens declared legally incapable by a court decision or those serving prison sentences. As previously noted by ODIHR, the blanket restriction based on "full legal capacity" is inconsistent with international standards that require any disenfranchisement to be narrowly tailored, proportionate, and based on an individual assessment. The ECtHR has held that blanket disenfranchisement of persons under

²⁸ See the 2002 Venice Commission [Code of Good Practice in Electoral Matters](#), Section 3.3.e. and para. 100.

guardianship violates the right to free elections (*Alajos Kiss v. Hungary*), but that narrowly tailored, individualized restrictions linked to full guardianship may be permissible (*Strøbye and Rosenlind v. Denmark*).²⁹ However, even such individualized exclusions contravene the CRPD, which calls for the full and equal enjoyment of political rights by all persons with disabilities without exception.³⁰ **It is recommended to remove overly broad restrictions on suffrage rights based on intellectual disabilities, in line with international standards.**

35. Similarly, automatically disenfranchising a citizen solely on the basis of a criminal conviction, without regard to the nature or gravity of the offense, is inconsistent with international human rights obligations.³¹ Such blanket restrictions undermine the principles of proportionality and equality enshrined in ICCPR Article 25 and OSCE commitments, which require that any limitation on the right to vote be necessary, reasonable, and narrowly tailored to protect the integrity of the electoral process.³² **In line with a previous recommendation, restrictions on prisoners' right to vote should be proportionate to the severity of the crime committed.**

4.2 Voter registration

36. Article 19 outlines the procedures for the preparation, presentation, and delivery of the voter list. The list is compiled from the state civil registration database, with the state registration authority responsible for verifying data, removing duplicates, registering unregistered eligible voters, and handling appeals. It includes voters' surname (father/mother's name), given name, gender, registration number, and permanent residence address, and is organized by administrative units. Local authorities verify precinct-level data and submit it to the central authority, which posts the list online from April 1 of the election year. Various state bodies (Supreme Court, Court Decision Enforcement Authority, State Administrative Authority for Border Protection, State Authority in Charge of Defence, Central Police Authority, and the State Authority in Charge of Immigration and Naturalization) provide data on citizens with legal restrictions, special services, or citizenship changes, leading to temporary removal or re-registration as needed (Articles 19.3 to 19.6), in line with good practice.³³ Revisions are made in case of false registrations, address changes, civil status updates, and voter appeals, at least 25 days before polling (Article 19.9). Voters can verify their registration at least 14 days before elections (Article 19.12).
37. Data protection for voter lists is guaranteed by several measures outlined in Article 19. Voter information is compiled and maintained by the state administrative authority in charge of state registration and is produced in both paper and electronic formats strictly for election purposes. Reproduction, distribution, or use of the voter list for unauthorized purposes is explicitly prohibited. Access by political parties, coalitions, or authorized representatives is limited and allowed only once per precinct before the election. During scrutiny, any exposure is jointly supervised by authorized staff and precinct election committee chairs, with strict prohibitions

²⁹ See in particular [Strøbye and Rosenlind v. Denmark](#), nos. 25802/18 and 27338/18, 2 February 2021; [Alajos Kiss v. Hungary](#), no. 38832/06, 20 May 2010.

³⁰ According to Articles 12 and 29 of the [CRPD](#), "State Parties shall recognise that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life" and ensure their "right and opportunity [...] to vote and be elected". Paragraph 48 of the [General Comment to Article 12 of the CRPD](#) states that "a person's decision-making ability cannot be justification for any exclusion of persons with disabilities from exercising [...] the right to vote [and] the right to stand for election".

³¹ See [ICCPR](#), Article 25; ECHR, [Protocol No. 1](#), Art. 3; See also [Hirst v. the United Kingdom](#), no. 2, Judgment of 6 October 2005, para. 82.

³² See also paragraph 24 of the [1990 OSCE Copenhagen Document](#), which provides, in part, that "any restriction on rights and freedoms must, in a democratic society, relate to one of the objectives of the applicable law and be strictly proportionate to the aim of that law."

³³ Section 3.D of the 2012 [ODIHR Handbook for the Observation of Voter Registration](#) notes that "several different institutions may be involved in different aspects of the process, especially in systems where voter registration data are a subset of another State-maintained database. It is critical that the legal framework provides for a clear division of responsibility among the institutions and individuals involved in voter registration."

on recording or reproducing the list (Articles 23.5 and 23.7). These measures aim to protect voter privacy, maintain the integrity of the list, and prevent unauthorized use. However, concerns may arise regarding the practical enforcement of these restrictions, as it may be difficult to fully prevent unauthorized recording or sharing of sensitive voter information during scrutiny. In addition, Article 19.20 allows representatives of political parties, coalitions, and registered non-governmental organizations to “introduce the activities of preparation, removing duplications, verifying, and delivery of voter lists,” but it does not clearly define whether their role is supervisory, observational, or participatory, nor does it specify safeguards against interference or misuse. **More clear guidelines and defined roles are needed to ensure that oversight by these representatives strengthens, rather than undermines, the integrity of the voter registration process.**

38. Moreover, data protection for voter lists in non-regular and by-elections is generally ensured under Article 21 through adherence to the procedures established in Articles 19 and 20. However, certain ambiguities remain. Specifically, Article 21.2 provides that voter lists are uploaded online and accessible over a website, potentially exposing personal information such as names, registration numbers, and addresses. The Law does not clearly define who is authorized to access these online lists for non-regular elections, nor does it explicitly reaffirm prohibitions on reproduction or use for unauthorized purposes, creating potential gaps in privacy protection. This is partially addressed in Articles 23.1 and 23.2 related to procedures for resolving complaints, which consider that a voter or a “family member” may access the voter list to verify registration or lodge appeals, and that revisions must be reflected in the list before the election. However, the Law does not clearly state the scope or limits of access to the voter registration data, leaving ambiguity about whether observers, political representatives, or other parties may view the lists and how unauthorized access is prevented. **Consideration could be given to strengthening safeguards for online voter lists and data transfers, including explicit access restrictions, monitoring protocols, and enforcement measures defined in the law, to ensure full protection of voter privacy and integrity across all types of elections.**
39. Article 24 governs the procedures for transferring voters between precincts. It requires voters to submit a transfer request and supporting documents to the relevant election or civil registration authority at least 14 days before election day. The same 14-day requirement applies to election staff, police overseeing elections, and candidates or their representatives, based on official requests from their employers or authorities. Once a voter is transferred, their status is recorded with a “transferred” note on the voter list. This provision prevents last-minute changes that could disrupt the voting process or compromise election integrity; **however, such deadlines should be clearly communicated and accessible to the public to ensure transparency and public trust in the electoral process.**
40. Article 25 regulates the suspension and restoration of civil internal migration in relation to elections. It mandates a ban on civil migration starting 60 days before election day, which is lifted the day after election results are officially announced. The authority to enforce this suspension and subsequent restoration lies with the head of the state administrative body responsible for state registration. Additionally, the procedures outlined apply uniformly to all types of elections, including regular, non-regular, and re-elections. While this provision appears aimed at stabilizing the voter lists and preventing manipulative population shifts that could influence election outcomes, it also raises concerns about temporarily restricting citizens’ freedom of movement.³⁴ **To safeguard citizens’ freedom of movement, the law should clearly distinguish between administrative changes of residence registration and citizens’ physical relocation, ensuring that any temporary restrictions apply, where**

³⁴ See Article 12, [ICCPR](#).

justified, only to administrative registration and not to actual movement. While such administrative safeguards may be considered in elections conducted in multiple constituencies to prevent potential misuse, Article 25 should in any case be removed from the Law, as presidential elections are held in a single nationwide constituency. Furthermore, while the existing restriction may be intended to prevent the coerced or incentivized relocation of voters, including situations in which employers or other actors may pressure individuals to change their place of registration in order to influence constituency-based election outcomes, such risks should be addressed through effective investigation and sanctioning of electoral offences, including voter coercion, intimidation, and vote-buying. Preventive administrative measures that broadly restrict residence registration or affect all citizens, regardless of individual conduct, are a disproportionate response and risk unduly limiting fundamental rights. Electoral integrity is better safeguarded through targeted criminal, administrative, and oversight mechanisms rather than through blanket restrictions on internal migration.

4.3 Candidacy rights

41. Provisions on candidate rights are spread in different articles. According to Article 3.1.2 a “candidate” means a citizen of the Republic of Mongolia who has registered as a candidate for the President of the Republic of Mongolia and has obtained a candidate license in accordance with the requirements of the Constitution. Under Article 4, the president is elected by the people as the head of state under Article 30 of the Constitution. Under Article 5.4, a presidential candidate must be a native citizen of the Republic of Mongolia who meets the constitutional requirements, including being at least 45 years of age, obtained a candidate license in accordance with the requirements of the Constitution (Article 31.2), and having maintained permanent residence in Mongolia for at least five consecutive years prior to the election, without residing abroad for more than six months (Article 3.1.9). A person may be elected President only once.
42. In addition, under Article 26.2, to be eligible, a candidate must, in addition to meeting general legal requirements, have no outstanding debts, collateral, or guarantees owed to banks, legal entities, or individuals as determined by a court; have no overdue taxes or payments; and if they own 51 per cent or more of a company, that company must also have no overdue taxes; and must not have any mental disorders. Furthermore, Individuals currently serving a prison sentence for criminal offenses under a valid court decision are prohibited from running for candidacy (Article 26.5), as well as individuals convicted by a court decision for corruption or crimes related to their official positions (Article 26.6).
43. Similar to provisions on voting rights, eligibility requirements are currently dispersed across multiple articles, which may create legal uncertainty. **It may therefore be advisable to consolidate all presidential eligibility conditions in a single article to enhance clarity and legal coherence.**
44. More importantly, under Article 5.5, candidates may only be nominated by political parties represented in the parliament.³⁵ Citizens cannot run independently. As previously noted, the nomination of presidential candidates only by parliamentary parties runs contrary to OSCE commitments and other international obligations and limits the choice offered to the electorate.³⁶ A repeated recommendation of ODIHR election observation missions has been

³⁵ Article 5 only mentions political parties, but Article 31 of the Constitution narrows it to parties represented in the parliament.

³⁶ Paragraph 7.5 of the [1990 OSCE Copenhagen Document](#) provides that participating States “respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination.” Paragraph 17 of the [General Comment 25](#) to Article 25 of the ICCPR also affirms that “the right of persons to stand for election should not be limited unreasonably by requiring candidates to be members of parties or of specific parties.” See also [ODIHR Opinion](#) on draft laws of Mongolia on presidential, parliamentary and local elections.

that relevant provisions be amended to allow for independent candidatures in presidential elections, in order to bring legislation in line with OSCE commitments. **The law should be amended to allow candidates to run independently.**

45. Citizenship requirement is permissible in line with international standards. However, requirement of “native citizen” combined with Article 28.2.11, which requires candidates to submit a document proving that their parents are of Mongolian nationality, implies that naturalized citizens, or individuals whose parents have changed their citizenship, are excluded from running as candidates, thereby restricting eligibility based on descent rather than solely on an individual’s own citizenship status. Such a restriction raises concerns regarding its compatibility with Article 25 of the ICCPR, which guarantees every citizen the right to participate in public affairs and to be elected without unreasonable restrictions. The UN Human Rights Committee, in its General Comment No. 25 (1996), emphasizes that no distinction among citizens is permissible on grounds such as birth, national or social origin, or other status, and that eligibility requirements must be reasonable and objective.³⁷ Similarly, the Venice Commission’s Code of Good Practice in Electoral Matters provides that while eligibility may be subject to reasonable conditions, such as age, citizenship, and residence, restrictions must not be discriminatory.³⁸ **Conditioning candidacy on “native” nationality or descent goes beyond legitimate considerations of citizenship and therefore constitutes an unreasonable and discriminatory restriction on the right to stand for election, and should be reconsidered.**
46. In addition, the residency requirement of at least five consecutive years prior to the election, which is a constitutional norm, without residing abroad for more than six months, constitutes an unreasonable restriction on the right to stand.³⁹ While the five-year residency requirement ensures a genuine connection to the country, the general rule of a five-year residency period can lead to discrimination and does not correspond to international electoral standards. In particular, paragraph 15 of the UN ICCPR General Comment #25 states that “persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements such as education, residence, or descent, or by reason of political affiliation.” According to good electoral practice, “length of residence requirements may be imposed on nationals solely for local or regional elections.”⁴⁰ This is particularly problematic for the requirement not to be absent from the county for more than six months. Such short-term periods abroad could be for a reason, such as education, fellowships, or professional development, which should not automatically disqualify a candidate from standing for office. **The five-year residency requirement for candidacy is at odds with international standards on democratic elections and should be reconsidered.**
47. Lastly, a requirement provided in Article 26.2, which is a blanket exclusion of candidates based on “mental disorders,” is concerning. The UN Human Rights Committee and the Convention on the CRPD emphasize that restrictions based on disability, including mental health conditions, are discriminatory unless strictly necessary and proportionate to a legitimate aim.⁴¹ **Broad, undefined disqualification criteria risk stigmatizing individuals with mental health conditions and contravene the principle of equality. Instead, eligibility requirements should be narrowly tailored and clearly defined, focusing only on objective criteria directly relevant to a candidate’s capacity to perform presidential duties.**

³⁷ See the [General Comment No. 25](#), paras. 3 and 4.

³⁸ See Venice Commission, [Code of Good Practice in Electoral Matters](#), I.1.1.d–I.1.1.e

³⁹ See also Article 30 of the [Constitution](#).

⁴⁰ See Venice Commission, [Code of Good Practice in Electoral Matters](#), section I.1.1.c.iii.

⁴¹ See also para. 7.5 of the [1990 OSCE Copenhagen Document](#): participating States committed “to respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination”. See also Articles 3, 12 and 29 of the [CRPD](#) and section I.1.1.d of the Council of Europe’s Venice Commission [Code of Good Practice in Electoral Matters](#).

4.4 Candidate registration

48. Nomination of candidates commences 40 days before the polling day and is completed within three days (Article 26.1) by the GEC. Article 26.3 requires that certain public officials resign from their positions before running for president. Specifically, by January 1 of an election year (or before nomination activities begin in non-regular or by-elections), candidates must step down if they are principal civil servants; supervisory officials of public service; heads, deputy heads, directors, or deputy directors of state- or locally-owned or partially-owned entities; or full-time or part-time members of joint-management institutions established by the Government.
49. Under Article 27.1, the nomination of a candidate by a political party must be discussed and decided through secret voting at the party's central representative body, with approval by a majority of votes. When political parties jointly nominate a candidate, the decision must be made at the central representative meetings of each participating party (27.2). Such a joint nomination becomes official once the heads of all involved parties sign the respective decisions (27.3). Additionally, the parties must establish a cooperation agreement outlining their mutual rights and responsibilities, the names, workplaces, and positions of individuals managing the joint election activities, the name of the official representing the joint parties, and any other agreed-upon matters. While such detailed provisions may contribute to greater clarity and transparency in the nomination process, political parties should retain control over their own internal organization and decision-making procedures, in line with the fundamental freedoms of association and assembly. Therefore, while some level of regulation is acceptable, **state involvement should remain limited to ensuring transparency in decision-making, promoting democratic governance, and encouraging participation of party members in the formation of party constitutions and the selection of candidates.**⁴²
50. Candidates who have been previously denied registration may request re-registration by submitting the required documentation to the GEC at least 30 days before polling day, provided any irregularities have been resolved (Articles 29.2 and 29.3). While this timeline is technically compatible with the nomination period for presidential candidates, which runs from 40 to 37 days before polling (Article 26.1), the seven-day gap between the end of nominations and the latest possible re-registration may be tight for administrative processing and could limit candidates' effective ability to exercise their rights. **It is recommended to extend the nomination period and schedule its conclusion earlier in the election calendar to ensure candidates have sufficient time to complete the registration and for authorities to process applications effectively.**
51. In addition, Article 28.8 provides that once registration is confirmed, candidates cannot withdraw. The prohibition on withdrawal after registration is not in line with international good practice. Candidates should be allowed to withdraw their candidacies up to a clearly defined deadline, typically before the printing of ballot papers, to safeguard the voluntary nature of participation and political freedom.⁴³ A complete ban on withdrawal may unduly restrict candidates' rights and limit political flexibility. **It is recommended to allow candidates to withdraw their candidacies up to a clearly defined deadline prior to the finalization of ballots, in line with international good practice.**

⁴² See ODIHR-Venice Commission [Guidelines on Political Party Regulation](#), para 155.

⁴³ See Venice Commission, [Code of Good Practice in Electoral Matters](#): Guidelines and Explanatory Report, I.1.3.vi and II.3.1.

5. ELECTION ADMINISTRATION

5.1 Structure and composition

52. The GEC oversees nationwide elections and manages all lower-level committees, including those at the province (*aimag*), capital, district (*soum*), and precinct levels, as well as abroad (Article 12.1). All lower-level election committees are temporary bodies (Article 12.2). The Head or Acting Head of the Governor's Office chairs the election committee at each level (Article 12.3). Administrative and service civil servants who complete official training and certification organized by the GEC may serve on committees, and only those with certificates are eligible for appointment (Articles 12.3 to 12.5).
53. Good practice suggests that the composition of election commissions, regardless of the formation method used, should ensure pluralism and credibility of the election administration, which should function in an independent and professional manner.⁴⁴
54. While members of election committees must remain strictly neutral, and they are prohibited from campaigning, expressing opinions on candidates, influencing voters, forging signatures, or manipulating voting and results (Article 12.10), the provision designating the Head or Acting Head of the Governor's Office as the chairperson of local election committees may raise concerns regarding their independence and impartiality. As local governors are part of the executive branch, their involvement in leading election committees could create perceptions of political influence or administrative bias, particularly in elections involving candidates or parties affiliated with those in power. As provided by the good practice, "[a]n impartial body must be in charge of applying electoral law... Where there is no long-standing tradition of administrative authorities' independence from those holding political power, independent, impartial electoral commissions must be set up at all levels."⁴⁵ **To align the Law with good practice, it is recommended that election committee chairs be selected from neutral, professionally trained, and non-partisan officials or through a balanced appointment mechanism that ensures representation from multiple political and civil society actors. This would strengthen the credibility, independence, and transparency of the election administration.**
55. Similarly, according to Article 14.1, "the composition of the *aimag* and capital election committee shall include representatives from the police and state registration authority of the respective level." While the intention may be to ensure logistical coordination and security, the inclusion of police as members of election committees raises concerns regarding the independence and perceived neutrality of these bodies.⁴⁶
56. Lastly, good practice calls for a pluralistic composition of election commissions, ensuring not only political balance but also attention to gender equality and the inclusion of persons with disabilities. The Law contains no provisions on gender balance, nor does it require the collection of gender-disaggregated data on the composition of the election administration.⁴⁷ Likewise, there are no rules or measures in place to promote or facilitate the participation of persons with disabilities in the work of election administration.⁴⁸ **To ensure compliance of**

⁴⁴ The composition of the GEC is not envisaged by this Law, therefore it is not discussed in detail. In case of partisan composition, international good practice recommends that "political parties already in parliament or having scored at least a given percentage of the vote must be equally represented on election commissions or must be able to observe their work. Equality must be construed strictly or on a proportional basis." See, for example, Section II.3.1 of the Venice Commission [Code of Good Practice in Electoral Matters](#).

⁴⁵ See Venice Commission, [Code of Good Practice in Electoral Matters](#), Section I.3.1(a). Explanatory Report, paras. 76 and 77.

⁴⁶ *Ibid.*

⁴⁷ See Paragraph 31 of the [1990 OSCE Copenhagen Document](#) that prohibits discrimination and obliges States Parties to adopt measures ensuring equal enjoyment of rights, and Paragraph 35 ensuring effective participation in public affairs.

⁴⁸ See [CRPD](#), Article 29

the Law with international good practice, consideration could be given to introducing measures to promote and ensure the participation of women and persons with disabilities in the work of the election administration.

5.2 Organization of the work of election administration

57. The Law provides a well-defined hierarchical and procedural framework for election administration, where lower-level committees must comply with superior bodies' decisions, and higher committees hold powers to repeal illegal decisions, replace non-compliant members, and demand written responses to appeals (Articles 12.7 to 12.9, 18.19 to 18.21). Additionally, requirements for quorum, majority voting, and signed resolutions (Articles 18.1 to 18.5) enhance procedural consistency and accountability. Such a strong hierarchical structure is commendable as it ensures consistency in operations and decision-making across all levels of election administration; however, this should not limit the autonomy of lower-level commissions. **Therefore, while hierarchical oversight promotes legal consistency, safeguards should be introduced to ensure that lower-level election committees operate with sufficient functional independence and protection from undue influence, in line with international good practice.** This can be achieved by clearly defining the scope of supervisory powers of higher commissions, limiting their intervention to legal and procedural compliance, and guaranteeing that lower-level bodies have independent authority to make technical and operational decisions within their jurisdiction. Additionally, transparent appointment procedures, balanced representation of political and non-partisan members, and clear appeal mechanisms can further strengthen independence, ensuring that the electoral administration functions in a manner that is both coherent and credibly impartial.
58. Article 18 also prohibits members from abstaining, refusing to sign minutes, or leaving meetings without "valid reasons," and allows for the prompt replacement of those who violate these duties. While this provision aims to prevent deadlocks in decision-making and ensure the continuous functioning of the committee, the wording of "valid reasons" is overly vague and risks being applied subjectively. This is particularly concerning, as under the Law, if a member leaves an ongoing meeting without a valid reason, they "shall be deemed to be present at the meeting and to have voted against the issue under discussion" (Article 18.4) and can lead to their dismissal (Article 18.10). Moreover, wording such as "abstain from engaging in activities" should not be interpreted in a way that infringes on the right to freedom of expression. Members should be entitled to abstain from participation or from expressing a position on a matter without being required to provide a "valid reason," as long as such abstention does not obstruct the overall functioning of the committee. **To avoid such ambiguity, the Law could establish a clearer definition of what constitutes a "valid reason" and introduce procedural safeguards, such as requiring documentation or review by a superior election body, to ensure uniform and fair application of this rule.**
59. In addition, Article 18.10 stipulates that the superior election committee, which established the election committee, shall appoint a substitute immediately. The Law does not specify the conditions for such appointment, whether substitutes are preselected, or they need to be filled through a new process. **The Law should provide for clear procedures for recruitment with a timeframe that would not hinder the work of the committee, especially during the election period. Having clear and open procedures in place would also contribute to the transparency and trust in the system.**

5.3 Transparency

60. The Law outlines several provisions that enhance transparency and accountability in the functioning of election administration. This includes the appointment of election committee

members based on open registration (Articles 12.3 and 12.4) and the requirement that the establishment of lower-level committees be publicly announced well before elections (Articles 14.1 and 15.1), both ensuring transparency in the formation of election bodies.

61. In addition, committees are required to follow established procedures for meetings and minute-taking approved by the GEC, ensuring consistency and proper record-keeping (Article 18.11). Meetings may be attended by candidate representatives, media, and observers, with rules governing observation and audio-visual recording to promote openness while maintaining order (Articles 18.12–18.13). Decisions of election committees must be made public immediately and transparently (Article 18.14), and all election materials are to be properly registered in accordance with official procedures (Article 18.15). While these measures are commendable, **the Law could further strengthen transparency by requiring proactive publication of committee decisions, meeting minutes, and member attendance records on the respective website, allowing the public and stakeholders to monitor the work of election committees more closely.**⁴⁹ In addition, the Law should also require the information to be published in a user-friendly and accessible format and within a short deadline.

6. POLLING

62. 6.1 Under Article 54.1, the ballot paper must be simple and clear in content, wording, and design, and include instructions on how to vote. Each ballot shall display the candidate's surname (in small letters), given name (in capital letters), and the name of the nominating political party or coalition, along with the candidate's photo.
63. Under Article 54.4, candidates are listed according to the order in which their political party or coalition was registered with the State Supreme Court, with coalitions following the registration order of their member parties. This system gives an arbitrary advantage to earlier-registered and well-established parties, as they are placed first on a ballot. **Such an arrangement can therefore distort fair competition and undermine the principle of equality. A better alternative would be to randomize or rotate the order of candidates on the ballot, either by drawing lots or using a computerized random order.**

6.2 Secrecy of the vote

64. The secrecy of the vote is protected through several provisions.⁵⁰ According to Article 56.2.2 and 56.2.3, the governor must ensure that polling stations are equipped with both fixed and mobile booths designed specifically for voters to cast their votes in secrecy. Article 56.4 further reinforces this by requiring that each polling station contain at least two voting booths that allow voters to vote freely and in secret, with one booth equipped for voters with disabilities. Additionally, Article 56.12 mandates that surveillance cameras installed in polling stations must not interfere with or compromise voters' ability to cast their votes in secrecy. The same principles are envisaged for voting abroad under Article 57, and voting by mobile box (Article 59). In addition, Article 62.3 safeguards the secrecy of voting by requiring that

⁴⁹ Paragraph 19 [General Comment on article 34](#) of the ICCPR provides that “States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information. As well as Article 10(a) of the [UNCAC](#) states: “Adopting procedures or regulations allowing members of the general public to obtain, where appropriate, information on the organization, functioning and decision-making processes of its public administration and (...) on decisions and legal acts that concern members of the public.” See also the Section II.3.1. of the Council of Europe's Venice Commission [Code of Good Practice in Electoral Matters](#) recommends that “[t]he meetings of the central electoral commission should be open to everyone, including the media.”

⁵⁰ See [1990 OSCE Copenhagen Document](#), para. 7.3 and 7.4. See also Venice Commission, [Code of Good Practice in Electoral Matters](#) (2002), II.3.3, which recommends that ballot secrecy be ensured to protect voters from coercion or undue influence.

each voter personally cast their vote in a designated voting booth. It explicitly prohibits election officials and related personnel from disclosing any information about a voter's choice. Furthermore, after marking the ballot, voters must place it in a privacy sleeve before inserting it into the vote-counting machine (Article 62.4).

65. Additional provisions in Articles 62.13.3 and 62.14 further strengthen the protection of vote secrecy by prohibiting actions that could expose or influence a voter's choice. Specifically, voters are forbidden from taking photos, recording videos, or live streaming their own or others' marked ballots (Article 62.13.3), as well as from showing their marked vote or using unauthorized pens while voting (Article 62.13.4). Moreover, voters are not allowed to make promises or to request or accept money or goods in exchange for voting or not voting for a particular candidate (Article 62.13.5).
66. According to Article 62.9, assisted voting is allowed in cases where a voter is unable to cast a ballot in person due to medical conditions, disability, or limited literacy. In facilitating voting for such groups of voters that might be at greater risk of exclusion, such as the elderly, persons with disabilities, assisted voting can be argued to support the requirements of universality and equality. However, it is associated with several risks and concerns in light of international obligations and OSCE commitments.⁵¹ Foremost, assisted voting compromises the secrecy of the vote since it entails the disclosure of the voter's intent to another person. Another challenge is the risk of misuse. It is often difficult to ensure that the voter's decision to authorize assisted voting is made freely and voluntarily. This creates opportunities for coercion, intimidation, or undue influence, particularly affecting vulnerable and marginalized groups. Given the scale and the disproportionality in the use of assisted voting, as well as with a view to ensuring secrecy and equality of the vote, ODIHR has recommended limited and transparent use of assisted voting to prevent misuse and advocated always ensuring possibilities for independent voting of persons with disabilities.⁵²
67. Positively, the Law narrows the list of voters who can use a assisted voting and provides certain safeguards. For example, an individual is limited to assisting no more than two voters, and election officials, candidates, observers, or political figures are prohibited from assisting voters. However, the Law does not clearly regulate the application and eligibility process, as well as who signs in the voter list to attest the receipt of a ballot paper in case a voter is unable to (as envisaged by Article 60.12). **The Law could be more detailed on what basis a voter is eligible to request assisted voting and what needs to be presented to justify the request. Voters needing assistance to vote could be required to notify election authorities in advance through accessible procedures to ensure transparency and prevent potential abuse.**

6.3 Election Day

68. Article 58 provides a possibility to vote by a mobile ballot box. To qualify, voters must submit a request with supporting documentation, such as a medical certificate or institutional reference, within specified deadlines before the polling day. Those with medical conditions must submit their request and medical proof at least three days prior, either through their medical institution or local election committee. Voters in detention or military service must submit their request through their institution's management at least seven days before polling, and the election committee must forward these requests to the appropriate precinct at least five days before election day. For voters without guardians, local governors are responsible for submitting their requests. At least two committee members, candidate observers and a police officer may accompany the mobile box, which is positive. **However, the Law could**

⁵¹ See Article 25 of the [ICCPR](#), [1990 OSCE Copenhagen Document](#), para. 7.3; See also ECHR, [Protocol No. 1](#), Article 3.

⁵² See also ODIHR [Alternative voting methods and arrangements](#).

explicitly provide for the possibility of non-partisan, citizen election observers to accompany the mobile ballot box.

69. The Law permits at least two candidate observers to be present during mobile voting. Given that each candidate may appoint up to three observers per polling station, it is important for the Law **to explicitly clarify that the two observers should represent two different candidates. This ensures transparency in the observation process, reducing the risk of one candidate dominating oversight of mobile voting.**
70. According to Article 70.1, a ballot paper marked for more than one candidate shall be deemed invalid. While this provision establishes the legal criteria for invalidating a ballot, ballot validity procedures should, in principle, ensure that ballots are not disregarded when the voter's intention is clear and unambiguous. **Consistent with the good practice, the voting procedure must be kept simple, so that voter intent can be accurately reflected and counted whenever possible.**⁵³
71. According to Article 72.3, the GEC is legally obligated to present the election results and its decision on deeming a candidate elected within 10 days after the end of polling day. However, the Law does not require the publication of election results disaggregated by polling station.⁵⁴ **To enhance transparency and public confidence, it is recommended that there is a legal mandate for the GEC to publish preliminary and final election results in a disaggregated form. In addition, results transmitted from lower-level election commissions should be published immediately as preliminary results in real time. Making such detailed results accessible promptly would allow stakeholders to verify the accuracy of the counts and strengthen trust in the electoral process.**
72. The Law contains welcome provisions aimed at facilitating electoral participation of persons with disabilities. Polling stations are required to be accessible for wheelchair users (Article 56.5) and must include at least one voting booth specifically equipped for voters with disabilities (Article 56.4). Additionally, folders with braille letters are provided to assist visually impaired voters in marking their ballots (Article 56.3). Voters who are unable to cast their vote in person due to medical conditions, disability, or educational limitations may be assisted by a proxy (Article 62.9), and the GEC ensures that ballots cast by voters with disabilities are properly marked to reflect their participation (Article 62.16). These provisions aim to promote accessible voting for persons with disabilities, in line with international obligations.⁵⁵

6.4 Election observation

73. Article 63 provides for both citizen and international observation and allows candidates to appoint observers at all levels of the electoral process (Article 65.2), including counting and tabulation process (Article 68.17). Each candidate may appoint up to three observers, and registered non-governmental organizations may appoint up to two observers per polling station (Article 63.1). For polling stations abroad, only two observers may be appointed; however, the law does not explicitly mention citizen observers (Article 64.1). Independent civil society organization not affiliated with political parties may also carry out external monitoring of election activities (Article 63.13 and 63.14).
74. The GEC approves procedures for observation, including forms and templates (Article 63.6), and bodies entitled to appoint observers must submit written registration requests to the

⁵³ See Venice Commission, [Code of Good Practice in Electoral Matters](#), I. 3.2 i. and paragraph 31.

⁵⁴ See Paragraph 19 [General Comment on article 34](#) of the ICCPR.

⁵⁵ See Article 29 of the 2006 [UN CRPD](#) that requires states to “guarantee that “voting procedures, facilities and materials [shall be] appropriate, accessible and easy to understand and use”. See also the 2017 ODIHR [Handbook](#) on Observing and Promoting the Electoral Participation of Persons with Disabilities, p.p. 46-48.

precinct election committee at least five days before polling (Article 63.7). Identification cards are then issued at least two days prior (Article 63.8), and late submissions are not accepted (Article 63.9).

75. If a polling station cannot accommodate all observers simultaneously, observation is arranged on a rotation basis, ensuring at least one observer per candidate per rotation (Article 63.12). This is a positive provision, provided that rotation is applied equally; however, there is no equivalent provision for citizen or international observers. **This could be further added in the Law to ensure that a citizen observer is always present.**
76. Under Article 65.3, an observer's rights begin upon receipt of the observer identification card and end with the announcement of election results. **Unless the Law implicitly includes the finalization of results, this timeframe should be extended to allow observation of election dispute resolutions. Additionally, some citizen observers may monitor campaign finance regulations, which can extend beyond the announcement of the result.**

7. ELECTION CAMPAIGN

77. Under Article 32, a candidate's election headquarters has to operate within clearly defined organizational and procedural requirements. Each headquarters must conduct campaign activities under the management of authorized individuals, either the political party's head or a manager with the candidate's proxy, depending on the administrative level (Articles 32.2.1 and 32.2.2). The composition of headquarters must include designated roles such as the head, general manager, manager, aide, and electioneers (Article 32.3), and must comply with staff limits of up to 200 at the national level, 100 at the capital, 50 at *aimag*/district, and 20 at *soum/khoroos* levels (Article 32.4). The Law also limits the number of electioneers to one per 200 voters, allowing one additional electioneer for any remaining group of over 100 voters (Article 32.5). Similarly, under Article 40.1, a candidate may have up to 2 campaign facilities per precinct election committee. Furthermore, it mandates that all headquarters staff, including general managers, managers, aides, and electioneers, must obtain official identification cards issued by the appropriate election committee after the candidate's registration (Articles 32.6 to 32.8).
78. While the Law seeks to regulate the operations of electoral headquarters, it also significantly restricts the autonomy of political parties and candidates in determining how they wish to organize, conduct, and self-regulate their electoral campaigns.⁵⁶ Smaller or less institutionally developed parties and candidates may face particular challenges in meeting the human resource requirements set out in the Law. Such obligations could impose considerable administrative and financial burdens, reducing flexibility and potentially disadvantaging newer or resource-limited parties and candidates. The internal functions and processes of political parties should generally remain free from excessive state interference and should not be over-regulated. As provided by the Guidelines, "[l]egal regulation of internal party functions, where applied, must be narrowly construed so as to respect the principle of party autonomy and not to unduly interfere with the right of parties as free associations to manage their own internal affairs."⁵⁷ **Consideration could be given to revising these provisions to afford political parties greater autonomy and discretion in determining the structure, modalities, and functioning of their campaign headquarters.**
79. The wording of Article 32.1 restricts campaign activities solely to "candidate's meeting with voters and promotion of the election platform." However, Under Article 34.2, election campaigns may be conducted through distributing printed campaign materials displaying

⁵⁶ See the [ODIHR and the Venice Commission Joint Guidelines on Political Party Regulation](#), paras. 154-155.

⁵⁷ *Ibid.*, para. 151.

posters, party flags, symbols, and slogans in public spaces and organizing meetings or rallies with voters, as well as using broadcast media such as radio and television, websites and publications in newspapers, magazines, and other periodicals. Regardless, the narrow formulation appears to exclude other legitimate and modern forms of voter engagement, such as online outreach, policy discussions, or issue-based advocacy. By limiting the scope of permissible campaign activities in this way, the provision may unduly constrain candidates' ability to communicate effectively with voters and adapt to evolving campaign methods. This is particularly important as under Article 43.4.1 it's prohibited "to run an election campaign in other ways and forms other than that set forth in this law." **Consideration could therefore be given to broadening the language of this Article to explicitly allow a wider range of campaign activities. In addition, to allow for innovative campaign methods which include activities legally permissible as freedom of speech, consideration could be given to remove the provision which prohibits activities not explicitly stipulated in the Law (Article 43.4.1).**

80. Article 33 of the Law obliges candidates to prepare an election platform strictly within the powers of the president as defined by the Constitution and other laws (Article 33.1). It expressly prohibits campaign pledges involving material or financial promises, including money, property, employment, debt relief, free or discounted services, or the distribution of state or local budget funds (Articles 33.2.1 and 33.2.7), which is positive. The Law further requires each platform to undergo verification by the National Audit Office (NAO), which must assess its alignment with Mongolia's sustainable development vision and budgetary requirements (Article 33.4). Candidates must submit their platforms to the NAO no later than 37 days before election day and the NAO is required to issue its conclusion no later than 34 days before polling (Articles 33.5 and 33.6). If a platform fails to meet legal standards, the candidate is allowed one opportunity to revise it.
81. While the purpose of Article 33 is to ensure that campaign promises remain lawful and fiscally responsible, as well as aims to ensure the transparency in the process, its requirements and prohibitions may raise concerns regarding undue state interference in the right to freedom of expression. By mandating prior approval of campaign platforms and granting the NAO the power to assess their compliance and alignment with policy frameworks, the provision could effectively subject political content to state scrutiny, limiting candidates' freedom to express alternative or critical political visions.⁵⁸ The broad restrictions on permissible content, especially the prohibition on issues deemed outside presidential powers, might also constrain candidates from addressing topics of legitimate public concern or proposing reforms that challenge existing policies. Such constraints risk narrowing political debate, particularly for opposition candidates, and could undermine the diverse electoral discourse. The UN HRC General Comment 34 on Article 19 of the ICCPR guarantees the right to freedom of expression, including the right to seek, receive and impart information and ideas of all kinds regardless of frontiers. This includes the expression and receipt of communications of every form of idea and opinion capable of transmission to others, including political discourse, commentary on one's own and on public affairs, canvassing, and discussion of human rights.⁵⁹ **Consideration should be given to revising these provisions to ensure that transparency and accountability requirements do not unduly restrict legitimate political expression or policy advocacy. Any regulatory framework should respect the right of candidates to**

⁵⁸ See [ICCPR](#), Article 19. See also Human Rights Committee, [General Comment No. 34](#) (2011) on Article 19, paras. 11 and 23, emphasizing that freedom of expression encompasses political participation, including observation, reporting, and oversight in electoral processes.

⁵⁹ See Human Rights Committee, [General Comment No. 34](#), para.12. In Paragraph 5.1 of the [1990 OSCE Copenhagen Document](#), Participating States affirm "free elections [...] under conditions which ensure in practice the free expression of the opinion of the electors in the choice of their representatives" and commit to "the free expression of all their legitimate interests and aspirations, political pluralism [...]." See also Article 19 of the [ICCPR](#).

freely communicate their political ideas, propose policy alternatives, and engage in robust debate with voters.

82. Finally, the Law requires the NAO to publicly post all candidates' platforms and its conclusions on the website 16 days before the election (Article 33.7). **Given that voters have the right to receive information in a timely manner to make informed choices, consideration should be given to publishing candidates' platforms as soon as they are available.**
83. Articles 35 to 38 prescribe permissible methods and materials for conducting election campaigns. Specifically, the Law prescribes limits on the use of vehicles for campaigning, allowing up to 100 vehicles at the national level and 150 at *aimag* and district levels, with uniform signs approved by the GEC (Articles 35.1 to 35.4). It also regulates the printing, distribution, and placement of campaign materials, including newspapers, magazines, and leaflets, specifying size limits, approved locations (Article 36.1 to 36.11). The use of billboards and screens is permitted under strict conditions on size, number, placement, and temporary use in public spaces, with a prohibition on commercial advertising spaces or unsafe placement (Articles 37.1 to 37.7). Furthermore, candidates and authorized campaign bodies may use party flags, slogans, and signs, but only in designated campaign areas, on approved materials, vehicles, or clothing, and their use outside these parameters is prohibited (Article 38.1 to 38.2). While these provisions aim to structure campaign visibility, maintain equality, and ensure public safety, their effective implementation is crucial to prevent misuse or circumvention, particularly by well-resourced candidates.
84. At the same time, some requirements, such as limits on printed material formats, vehicle use, or billboard placement, may be overly rigid, unnecessarily restricting candidates' ability to communicate their messages effectively. Specifically, a candidate may use up to three printing sheets for newspapers (Article 36.1.1), three printing sheets for magazines (Article 36.1.2), and one printing sheet for leaflets (Article 36.1.3). While these restrictions are intended to standardize campaign materials, such rigid limitations may also constrain candidates' freedom of expression and their ability to design materials that effectively communicate their message. **Allowing candidates some flexibility in the format or layout, while still imposing reasonable limits on volume could enhance the effectiveness of campaign outreach without undermining candidates' rights.**
85. It's prohibited to use party flags, slogans, and signs in places other than candidate's election campaign premises, campaign billboards, screens, leaflets, vehicles authorized to be used for the election campaign, and clothes worn by the authorized body to run an election campaign. This restriction is overly narrow and may limit voters' freedom of expression, as supporters may wish to wear party or candidate symbols during rallies or other campaign events or at other times.⁶⁰ **Consideration could be given to distinguishing between authorized campaign activities and individual and private expressions of political support, in order to better balance citizens' rights to publicly express their political preferences.**

7.1 Campaign in media

86. Article 41 regulates the use of media for election campaigns. Public radio and television must broadcast campaign programmes on an equal basis and free of charge, according to schedules set by the Communications Regulatory Commission. The order of appearance is determined by the sequence in which political parties or coalitions are registered with the State Supreme Court. Generally, these provisions would facilitate nondiscriminatory and impartial conditions for candidates, political parties and coalitions running in the elections, as well as transparency

⁶⁰ See Venice Commission, [Code of Good Practice in Electoral Matters](#), II.3.3.

of media conduct of elections. These conditions would also be in line with good practice. However, the sequence by which the order of appearance is determined may advantage long-established parties while disadvantaging smaller or newly formed ones. This could undermine the principle of equal campaign conditions for all contestants and may conflict with the election commission's obligation to ensure such equality, in line with international standards and OSCE commitments.⁶¹

87. Private media may broadcast campaign programmes on a contractual basis, with strict limits on daily duration and costs, and must provide fair, balanced, and factual coverage. More specifically, private radio and television stations may broadcast up to one hour of election campaign programs per day, with no more than 15 minutes allocated to any single party, coalition, or candidate. Such a timeframe is overly restrictive and may not provide adequate opportunity for all candidates to present their platforms, thereby limiting voters' ability to make an informed choice. It may also limit editorial freedom and may be to the detriment of pluralism and the free flow of information.⁶² **It is therefore recommended to review these provisions with a view to ensure a fair and balanced coverage of the election campaign, with guarantees of respect for media independence and editorial freedom.**
88. Article 42 regulates online election campaigning. Candidates may use one official website, one social media page, and "other websites" for campaign purposes. All campaign websites must be registered with the Communication Regulatory Commission shortly after the candidate receives their identification card. While intended to provide oversight and prevent misuse of online platforms, the rationale for strictly limiting candidates to a single website and social media page is unclear and may raise concerns regarding freedom of expression and equal access to digital campaigning. The limitation to a single social media page is ambiguous, leaving it unclear whether it refers to one page per platform or only one page across all platforms. In this context, it is important to note the growing role of social media influencers as key intermediaries in political communication, particularly during elections, whose activities are largely beyond the direct control or resources of individual candidates. **Consideration should be given to removing the restriction on the number of websites or social media platforms a candidate may use, to better reflect modern digital campaigning practices and ensure equal opportunity for outreach.**
89. It is also unclear what "other websites" refer to: are they of candidates or other/third parties. While only official websites and social media accounts need to be registered, the access to all websites, including "other websites" creates a possibility to hold private users of social media, who might not have any affiliation to parties or candidates, but express views about the contestants through their accounts, accountable - a measure that would unduly and disproportionately restrict freedom of expression. **It is recommended that these provisions be revised to eliminate the possibility of holding third parties and private persons accountable for election contestants' non-compliance with imposed requirements.**
90. Overly restrictive rules on online campaigning may undermine transparency and equal opportunity for candidates. These limitations, coupled with the requirement to disable commenting on official campaign posts (Article 42.3) risk restricting equal opportunities for candidates to engage with voters, which limits public interaction and feedback, as well as impedes unduly political debate and the free flow of information and runs contrary to

⁶¹ See for example, Article 25 of the [ICCPR](#), and [General Comment No. 25](#). See also [1990 OSCE Copenhagen Document](#), Paragraph 7.6

⁶² Paragraph 25 of UNHRC [General Comment No. 25](#) states that "In order to ensure the full enjoyment of rights protected by article 25, the free communication of information and ideas about public and political issues between citizens, candidates and elected representatives is essential. This implies a free press and other media able to comment on public issues without censorship or restraint and to inform public opinion."

obligations to protect the freedom of expression.⁶³ Generally campaigning on social media platforms is subject to fewer restrictions than traditional media, offering increased accessibility for both electoral contestants and the electorate.⁶⁴ **Relevant provisions should be revised and brought in line with international obligations on freedom of opinion and expression.**

7.2 Duration of a campaign

91. Under Article 34.1, a candidate may launch their campaign from the day they receive their official identification card and must conclude all campaign activities no later than 12:00 a.m., 24 hours before election day. Article 43.7 prohibits campaign until the end of “re-voting and second re-voting”. However, the Law does not explicitly address the start and duration of campaigns in the event of a second round, creating a potential loophole. Without clear rules, and taking account the provision stating that running campaign in a time frame other than that permitted is prohibited (Article 43.4.2) it is likely that candidates may not restart or continue campaign activities between rounds. Additionally, the Law does not specify whether the identification card must be renewed or if other procedural formalities are required for campaigning in the second round. **To avoid uncertainty, the Law should explicitly regulate the timing, duration, and procedures for campaigns in all rounds of voting, allowing candidates to freely communicate with voters while maintaining clear limits to prevent misuse.**
92. Generally, the 24-hour silence period is becoming increasingly less effective, with the use of social media, and difficult to enforce, which provides contestants and other actors ample opportunities to bypass the moratorium and continue outreach to voters. The same reasoning applies to a total ban on campaigning during the period between election rounds. Namely, political advertisements and campaign content remain accessible on social media and social networks during the election campaign silence; algorithms continue to amplify previously posted political content; contestants can convey political messages to voters through third parties and influencers; international and foreign media available with or without subscription are not bound by national legislation; and group political messages are disseminated on messaging apps which are not considered media and are not subject to the regulation. Moreover, oversight is challenging as monitoring online posts in real time is not feasible and may result in selective and potentially arbitrary implementation. **To address these challenges, it is more feasible to focus on the transparency, and enforcement of existing campaign finance and advertising rules rather than attempting a blanket silence period, while ensuring voters have access to relevant information and that all candidates are treated equally in digital and offline campaign spaces.**

7.3 Use of administrative recourses

93. In the year of an election (or from the day the decision on holding by-elections or non-regular elections was made up to the end of the election day), the Law prohibits candidates and others

⁶³ Paragraph 11 of [General Comment No. 34](#) to Article 19 of the ICCPR states that “Paragraph 2 [of article 19] requires States parties to guarantee the right to freedom of expression, including the right to seek, receive and impart information and ideas of all kinds regardless of frontiers. It includes political discourse, commentary on one’s own and on public affairs, canvassing, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse.” Paragraph 12 specifies that “Paragraph 2 protects all forms of expression... and the means of their dissemination... They include all forms of audio-visual as well as electronic and internet-based modes of expression”. See also the [2004 OSCE Permanent Council Decision No. 633 on Promoting Tolerance and Media Freedom on the Internet](#): “Participating States should take action to ensure that the Internet remains an open and public forum for freedom of opinion and expression, as enshrined in the Universal declaration of Human Rights...”

⁶⁴ See, for example, [Recommendation of the Committee of Ministers to member States on electoral communication and media coverage of election campaigns](#), CM/Rec(2022)12

from distributing cash or goods, selling items at a discounted price, or providing free or discounted services to voters (Article 43.1.1), as well as organizing or sponsoring receptions, banquets, lotteries, or other events that could unduly influence voter behaviour (Article 43.1.3). It also forbids arranging domestic or international travel, holidays, or leisure opportunities for voters (Article 43.1.4), and making contracts or promises to provide benefits such as dividends, shares, or employment (Article 43.1.5 and 43.1.6). **While this provides a degree of safeguard against the misuse of administrative resources, Article 43 could be strengthened by explicitly prohibiting the allocation of budgetary funds outside of approved budgets and programmes, as well as the conclusion of contracts with fiscal implications for the following budget year, except in cases of urgent public interest, as determined by law. The prohibition could also be extended to the initiation of new investment projects, which could otherwise be used to gain political advantage during the election period.**

94. In addition, under Article 43.3, politically-appointed civil servants may participate in the election campaign. Hence, there are no clear provisions that would oblige them to maintain a strict separation between administrative functions and election campaign.⁶⁵ This does not address earlier concerns about loopholes in the legislation, including as highlighted in ODIHR's 2019 legal review, as well as ODIHR election observation reports. Contrary to UNCAC, which calls on States Parties to strengthen integrity, accountability, and transparency in public administration, the Law does not safeguard the principle of equality of opportunity in electoral competition, nor prevents the blurring of lines between state functions and political activities.⁶⁶ The absence of legal provisions and an effective sanction mechanism to ensure the separation of party and state, runs contrary to OSCE and international commitments. **To ensure a level playing field, consideration should be given to adopting clear provisions banning the misuse of administrative resources, as well as effective mechanisms to enforce appropriate sanctions. In addition, the effectiveness will also depend on consistent enforcement, independent oversight, and timely sanctions in cases of violation.**
95. Article 43.4.4 prohibits candidates from using transportation, assets, or resources belonging to state and local government authorities, or state-owned or partially state-owned entities, for campaign purposes. Governors and other officials are required to support all candidates equally in organizing meetings and forums (Article 39.2), but public resources cannot be leveraged to favour any candidates. While the Law clearly prohibits candidates from using government-owned transportation, assets, or other resources for campaign purposes, the threat of misuse persists, particularly because enforcement relies heavily on oversight by local authorities. Also, governors and other officials are formally obligated to support all candidates equally in organizing meetings however, officials might prioritize one candidate in scheduling venues, providing logistical assistance, or granting access to state-owned vehicles and facilities under the guise of "administrative support." The discretionary power of local officials can create unequal opportunities and the perception of bias even without overt violations. **The Law should establish clear, detailed procedures for monitoring and auditing the use of public resources, with transparent reporting, independent oversight, and strict penalties for any preferential treatment by officials.**

⁶⁵ The [2016 ODIHR and Venice Commission's Joint Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes](#) provide that "[r]espect for the principles outlined below is essential for preventing and responding to the misuse of administrative resources during electoral processes. Formal, substantive and procedural principles are cumulative prerequisites intended to ensure the foundations of a legal framework to regulate the use of administrative resources." See Paragraph 5.4 of the [1990 OSCE Copenhagen Document](#), which requires "a clear separation between the state and political parties".

⁶⁶ See, Article 7 and 9 of the [UNCAC](#).

7.4 Equality provisions

96. The Law provides some safeguards to ensure that all candidates have an equal opportunity to campaign and communicate their platforms to voters.⁶⁷ This includes, guaranteeing access to campaign facilities and public venues for meetings and forums free of charge (Articles 39.2 and 39.3), and setting clear rules for the use of radio, television, and online platforms with equal timing and conditions for all candidates (Articles 41.3, 41.12, 42.1 and 42.2). The Law also provides uniform rules for the placement of campaign materials, billboards, and screens in public spaces (Articles 36.2, 36.4, 37.1 and 37.3), and establishes proportional limits on campaign spending and vehicle usage (Articles 35.1–35.3, 42.12). Additionally, prohibitions against illegal or preferential campaign practices, including the use of state resources or media bias, further protect the principle of fairness (Articles 43.1, 43.2, 43.4 and 43.6).
97. This is positive, but several gaps remain. Local government involvement, particularly under Articles 39.2, 39.3, 36.2 and 36.3, creates a potential for bias, as governors and local authorities have discretion over the allocation of public venues and approval of campaign material locations. Although the Law prohibits naming specific candidates in such approvals, this discretion could indirectly favour certain candidates if approvals are delayed or restricted. Similarly, monitoring and enforcement mechanisms for media access and online campaigning, outlined in Articles 41, 42, and 43, may be insufficient, as candidates have limited recourse to address violations in real time. Quantitative limits on vehicles, campaign facilities, and materials (Articles 35–37, 40) help level the playing field but do not address qualitative advantages, potentially favouring well-resourced parties or incumbents. Overall, while the Law establishes a framework for equal campaigning, the combination of local discretion, enforcement gaps, and structural inequalities may pose challenges to ensuring a level playing field for all candidates. **To remedy these challenges, the Law should impose clear neutrality obligations on local authorities, strengthen independent monitoring and enforcement of campaign rules, and ensure qualitative fairness in media access, and online platforms. Training for officials and election bodies could further reinforce impartiality.**

8. CAMPAIGN FINANCE

98. It should be noted that the provisions pertaining to campaign finance in the Law are not comprehensive. While the Law on Parliamentary Elections and the Law on Political Parties are themselves not entirely in line with international obligations and good practice, as noted in previous ODIHR legal opinions, they contain relatively more detailed provisions.⁶⁸ This section focuses solely on analysing the articles in this Law; further assessment on coherence and comparative aspects, where applicable, is discussed in Section 10.

8.1 Funding of a presidential election campaign

99. Under Article 44, each nominating political party, coalition, or candidate is responsible for covering its own campaign. Campaign expenses may be financed through donations, the party's own funds, and a candidate's personal funds. While political parties represented in the parliament currently receive public funding, it is assumed that such funds could also be allocated to support a presidential election campaign. **To enhance clarity and legal certainty,**

⁶⁷ See UN Human Rights Committee, [General Comment No. 25](#) (1996), paras. 13–14; See also Venice Commission, [Code of Good Practice in Electoral Matters](#) (2002), II.3.

⁶⁸ See ODIHR [Final Opinion](#) on the Law on Political Parties of Mongolia.

Article 44 could explicitly stipulate whether and how public funds may be used for presidential election campaigns.

100. Positively, indirect state funding is available for all candidates in the form of free airtime and space for campaigns. However, to promote political pluralism and ensure that voters have meaningful alternatives for making informed choices, it is considered good practice to extend direct funding beyond parties represented in parliament to include all parties that are fielding candidates in an election and have a minimum level of public support.⁶⁹ While it is noted that the Law currently does not allow for other parties than parliamentary parties to field candidates, such a possibility is especially important for smaller or newly formed parties, which must be given a fair opportunity to compete with established parties. As underlined in the ODIHR and VC 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.⁷⁰ **To foster a level playing field, campaign finance regulations should also guarantee equitable access to state funding for all candidates.**
101. In addition, gender-targeted public funding could promote women’s political participation, offering financial incentives tied to meaningful representation and equality initiatives. It is also acknowledged that the Law on Political Parties includes provisions linking the allocation of public funding and its amount to measurable efforts to promote the political participation of women and persons with disabilities, which is commendable.⁷¹ **Further regulation could be considered to provide financial incentives for political parties that nominate women presidential candidates and consideration could be given in other legislation to offering incentives to parties that reach a certain level of gender representation among candidates for parliamentary elections.**
102. All campaign finances must be managed through a dedicated election expense account established in accordance with the procedures set out in Article 46.1. The use of any other accounts for accumulating or spending election funds is strictly prohibited. This is in line with good practice. Such a requirement enhances transparency and oversight.⁷²
103. Under Article 46, political parties and coalitions must maintain a single national election expense account, and while parties with local branches may open additional regional accounts, coalitions cannot have multiple local accounts, and donations to regional accounts are prohibited. Accounts must be opened after the decision on registering the candidate to run for the election has been made, and they must be reported to the NAO at least 13 days before polling. **For more effective oversight, it would be recommended that such notification is made immediately after opening an account.**
104. The absence of limits on total donations, combined with insufficient oversight and the lack of disclosure requirements before election day, could create several potential risks and undermine transparency in campaign financing. First, the absence of a limit on total deposits may encourage the accumulation of excessive funds, which could incentivize off-the-record spending. Second, enforcing the withdrawal cap during the campaign may be administratively challenging, as the oversight body must track not just spending but also account balances and

⁶⁹ See the [ODIHR and the Venice Commission Joint Guidelines on Political Party Regulation](#), para. 233.

⁷⁰ See the [ODIHR and the Venice Commission Joint Guidelines on Political Party Regulation](#), para. 241.

⁷¹ See the CEDAW Committee, [General recommendation #40 \(2024\)](#) on the equal and inclusive representation of women in decision-making systems, para. 51 (d). See also See [ODIHR Compendium of Good Practices for Advancing Women’s Political Participation in the OSCE Region](#) (2016).

⁷² Paragraph 212 of the [ODIHR and the Venice Commission Joint Guidelines on Political Party Regulation](#) states that “another means to avoid undue influence from unknown sources is to state in relevant legislation that donations above a certain (low) amount shall be made through bank transfer, bank check, or bank credit card, to ensure their traceability in terms of amount and sources.”

transfers to ensure compliance, and this is not possible until finance reports are filed. Finally, this structure may favor well-funded parties or candidates with access to large financial reserves, potentially creating an uneven playing field and raising concerns about transparency, accountability, and fairness in the electoral process. **The Law could provide that any amount exceeding the legally specified maximum election expenses be transferred to the regular political party account or designated for non-campaign-related activities, ensuring transparency and preventing misuse of excess funds.**

105. Private funding is a form of citizen participation, enabling individuals to freely express support for a political party or candidate through financial or in-kind contributions. Except for sources of funding banned by relevant legislation, individuals should have the right to freely express their support, albeit with reasonable limits on contributions and transparent documentation and reporting of donations.⁷³ Donations can be monetary (Article 49) or in-kind (Article 50). It is positive that both monetary and in-kind contributions count toward donation limits. Only Mongolian citizens and legal entities (if permitted under law and their charter) may donate. Cash donations are limited to MNT 3 million (approximately EUR 2,400) per individual and MNT 10 million (approximately EUR 7,900) per legal entity, and each donor may contribute only once per year to a political party or coalition account. Donors must provide their name, registration number, and information on the source of funds; donations failing this requirement must be returned or transferred to the state. Legal entities must report donations in their financial and tax statements. Overlapping donations within a coalition are prohibited, and anonymous donations are redirected to the state budget.
106. Under Article 51.1, foreign countries, foreign or international organizations, foreign-invested organizations, state or local authorities, foreign citizens or stateless persons, minors under 18, state-owned or partially state-owned entities, legal entities with tax debts or bankruptcies, trade unions, religious organizations, and legal entities established less than one year ago are prohibited from making election donations.
107. To ensure integrity in the financing of political parties and election campaigns and limit undue influence, it is common to set donation limits for contributions given by natural (and legal) persons personal contributions to candidates' personal campaigns and to ban certain types of donations (including foreign or anonymous sources, legal entities, and corporations with government contracts or partial government ownership). Thus, Article 51.1 is largely in line with international good practice.⁷⁴ However, certain aspects extend beyond what is generally considered permissible, potentially imposing stricter limitations than necessary.
108. First, the prohibition on foreign funding is generally consistent with international good practice.⁷⁵ Some concerns may arise with respect to the right of parties to receive funding from foreign nationals and stateless persons residing in Mongolia. In the current case, the blanket exclusion of foreign citizens may result in overreach, especially in cases involving Mongolian citizens who hold dual citizenship or stateless persons living on the territory of Mongolia. Article 41(1) of the International Convention on the Protection of All Migrant Workers and Their Families states that "migrant workers and members of their families shall have the right to participate in public affairs of their State of origin and to vote and to be elected at elections

⁷³ See the [ODIHR and the Venice Commission Joint Guidelines on Political Party Regulation](#), par. 209-213.

⁷⁴ The Council of Europe [Committee of Ministers Recommendation Rec\(2003\)4](#) sets criteria for the prohibitions. Among others, Article 5 prohibits legal entities under the control of the state or other public authorities from making donations to political parties, Article 6 prohibits donations from all entities which are related, directly or indirectly, to a political party or are otherwise under the control of a political party, and Article 7 prohibits or limits donations from foreign donors.

⁷⁵ See [Recommendation Rec\(2003\)4](#) of the Committee of Ministers of the Council of Europe on Common Rules Against Corruption in the Funding of Political Parties and Electoral Campaigns, which states that "states should specifically limit, prohibit or otherwise regulate donations from foreign donors.

of that State, in accordance with its legislation.”⁷⁶ In addition, Recommendation 1500 (2001) on Participation of immigrants and foreign residents in political life in the Council of Europe member states, notes that democratic legitimacy required equal participation by all groups of society in the political process and that the contribution of legally resident non-citizens to a country’s prosperity further justifies their right to influence political decisions in the country concerned (para. 4). **Consideration could be given to allowing such persons to financially contribute to political parties in their host countries.**

109. The prohibition on legal entities established less than one year ago from making election donations raises concerns under Article 22 of the ICCPR. While such a restriction may pursue a legitimate aim, such as preventing the misuse of newly formed “shell” companies for illicit funding or corruption, it must also meet the ICCPR’s strict tests of legality, necessity, and proportionality. A blanket one-year ban appears overly broad, as it excludes newly established but legitimate entities from participating in the political process, thereby limiting freedom of association and expression and potentially disadvantaging new or smaller actors. **The ban of such legal entities should be reconsidered or, if maintained, narrowed to meet the legality, necessity, and proportionality test.**
110. Article 51.3 puts the burden on a donor to prove whether they meet the requirements as a donor and holds them responsible for the liabilities arising from failing to fulfill this obligation duly (however, there are no sanctions provided). On the other hand, Article 51.2 defines that if a donation was made by a body prohibited from making donations or whose legal status is uncertain, the authorized body to receive donations shall transfer the received donation back, and donations received in breach of Article 51.2 of this law shall be transferred to the state (Article 51.4). This creates a potential inconsistency in the allocation of responsibility between donors and recipients. If donors bear full responsibility for ensuring the legality of their contributions, obliging recipient parties to refund such donations implies a shared or secondary liability, which may blur accountability. The provision lacks clarity on whether the recipient is expected to independently verify the donor’s eligibility or merely to act upon discovery of an irregularity. **For coherence and legal certainty, the relationship between donor obligations and recipient duties should be clearly defined, ensuring that the recipient’s primary responsibility in preventing and remedying unlawful donations is clear and enforceable.**
111. Under Article 51.6, a political party and a candidate are prohibited from taking a loan for election activities. Loans are a common practice and source of financing for electoral actors. At the same time, if left unregulated, loans may be used by donors to circumvent donation limits and bans. The maximum transparency regarding loans and credits should also be required to ensure the independence of the political parties involved in the said transactions. According to ODIHR and Venice Commission Joint Guidelines, in some states, political parties are required to provide information concerning outstanding loans, the corresponding awarding entity, the amount granted, the interest rate, and the period of repayment.⁷⁷ In such countries, specific measures were also taken to ensure that the reimbursement of loans complies with the terms with which they have been granted.⁷⁸ **Consideration should be given to introducing regulations on bank loans with the detailed provisions on their repayment.**

⁷⁶ See [International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families](#) (adopted 18 December 1990, entered into force 1 July 2003). According to Article 2(2) of this Convention, the “term ‘migrant worker’ refers to a person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a State of which he or she is not a national.” See also [ODIHR and the Venice Commission Joint Guidelines on Political Party Regulation](#), para. 230.

⁷⁷ See the [ODIHR and the Venice Commission Joint Guidelines on Political Party Regulation](#), para. 260.

⁷⁸ *Ibid.*

112. Under Article 51.5, a political party may allow the use of its movable and immovable property for the election campaign of the party, a coalition, or a candidate, without it being deemed a donation. While this facilitates the party's internal use of resources, it may raise concerns about transparency, as the value of such property use is not disclosed and could advantage wealthier parties over smaller or less established ones. It may also complicate regulatory oversight, making it harder to track indirect contributions or accurately assess campaign support. To address these concerns, **it is recommended that the provision be reviewed so that the use of party (movable) property is permitted, but any use of assets below market value is accounted for as a reportable donation.**
113. The Law fails to properly regulate so-called "third parties," including "individuals and organizations who are not legally tied to, or acting in co-ordination with, any candidate or political party, but who nonetheless act with the aim of influencing the electoral result."⁷⁹ As already noted by ODIHR in detail, lack of regulation in this respect and circumvention of financial regulations in practice was observed.⁸⁰ **It is essential to extend some form of regulation, including obligations and restrictions comparable to those applicable to parties and candidates, to true "third parties" involved in the campaign to ensure transparency and accountability and avoid the circumvention of funding limits.**⁸¹

8.2 Expenditures

114. There is no limit for the aggregated income collected in the account, but withdrawals during the election campaign shall not exceed the expenditure limit set by the NAO. Under Article 45, election expenditures are determined by considering the size of the territory, its location, number of households and voters, and other requirements set forth in the Law. This maximum is announced by 1 March of the election year and must be abided by until the next regular election.⁸² For non-regular elections, the maximum may be revised within 30 days of the election being called. During the 2024 parliamentary elections, several ODIHR Election Observation Mission interlocutors regarded the campaign expenditure limits as too high, which may lead to excessive spending by some parties with a potential undue impact on voters, giving a disproportionate advantage to the larger, well-established political parties and the incumbents. They also noted that the combination of high spending limits and campaigning costs negatively impacted the campaigning opportunities for women and young candidates, especially in majoritarian contests.
115. As noted by the United Nations Human Rights Committee in General Comment #25, "reasonable limitations on campaign expenditure may be justified where this is necessary to ensure that the free choice of voters is not undermined or the democratic process distorted by the disproportionate expenditure on behalf of any candidate or party. The results of genuine elections should be respected and implemented."⁸³ Thus, it is reasonable for a state to determine the criteria for electoral spending and a maximum spending limit for participants in elections in order to achieve the legitimate aim of securing equity among candidates and political parties. The maximum spending limit usually consists of an absolute or relative sum determined by factors such as the voting population in a particular constituency and the costs for campaign materials and services. Good practice also provides that limits should account

⁷⁹ See the [ODIHR and the Venice Commission Joint Guidelines on Political Party Regulation](#), para. 218. See also [ODIHR Note on Third Party Regulations in the OSCE Region](#) (2020).

⁸⁰ See ODIHR Final Opinion on the Law on Political Parties of Mongolia, paras. 100–107.

⁸¹ See the [ODIHR and the Venice Commission Joint Guidelines on Political Party Regulation](#), para. 256.

⁸² For example, during the 2021 presidential election, this was EUR 2.5 million per party.

⁸³ See [General Comment No. 25](#) on Article 25 ICCPR: The right to participate in public affairs, voting rights, and the right of equal access to public service, para. 19.

for inflation. This requires that legal limits are based on a form of indexation rather than absolute amounts. Whichever system is adopted, such limits should be clearly defined in law and be foreseeable. Political parties need to be provided with “a reasonable indication as to how those provisions will be interpreted and applied.”⁸⁴ **In line with a previous recommendation, to enhance equality between parties in campaign opportunities, the legal drafters should review and consider decreasing campaign expenditure limits, assessing the maximum that a political party could reasonably be expected to spend while ensuring that spending limits are sufficiently restrictive to prevent small parties from being disproportionately disadvantaged.**

8.3 Reporting, oversight and sanctions

116. Under Article 52, political parties and coalitions are required to report all income and expenses related to their election accounts. This includes both monetary and non-monetary assets. The report must include the total amount of income deposited to the election expense account by source and transaction (Article 52.4.1); details of individual and legal entity donors, including their name, registration number, and donation form and amount (Articles 49.4 and 52.4.2); expense categories and corresponding contracts (Article 52.4.3); the amount and location of the account balance (Article 52.4.4); and cash amounts prior to withdrawals (Article 52.4.5).
117. Publication of financial reports is crucial to establishing public confidence in the functions of political parties, as well as the outcome of elections. As stated in the Joint Guidelines, “[t]ransparency in party and campaign finance [...] is important to protect the rights of voters, prevent corruption, and keep the wider public informed. Voters must have relevant information as to the financial support given to political parties, as this influences decision-making and is a means of holding parties accountable.”⁸⁵ At the same time, it is important to reiterate that transparency or reporting requirements must strike a balance between necessary disclosure and the required privacy and data protection safeguards of individual donors and members, especially if there is a reasonable probability of threats, harassment or reprisals.⁸⁶ Having a requirement for donors’ names and addresses raises concerns regarding the privacy rights of individual donors. In line with previous recommendation, **it is recommended that the private addresses of donors be excluded from the report at the time of publication.**
118. Despite repeated ODIHR recommendations, parties are not required to submit or disclose pre-election reports on campaign income and expenditure, which limits the transparency of campaign financing prior to election day. **It is recommended to introduce a requirement for reporting prior to election day to enhance voters’ ability to make an informed choice.**
119. The expenses report must be audited by a private legal auditing entity and submitted to the NAO within 45 days after polling day (Article 52.3). Additionally, the director or branch manager of the bank where the election expense account is held must prepare a full statement of all transactions and deliver it to the state audit authority within 30 days after polling day (Article 52.5). The Law does not specify how a private auditing entity is selected, the duration of its engagement, or who covers the related expenses. If this entity is the same as the auditors engaged for auditing party annual reports under the Law on Political Parties, this should be clarified, particularly regarding whether the expenses for such an audit are covered by the

⁸⁴ See also See ECtHR, [Cumhuriyet Halk Partisi v. Turkey](#), no. 19920/13, 26 April 2016, para. 106.

⁸⁵ See the [ODIHR and the Venice Commission Joint Guidelines on Political Party Regulation](#), para. 247. See also Council of Europe Committee of Ministers, [Recommendation 2003\(4\)](#) on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns, Article 3a.

⁸⁶ See the [ODIHR and the Venice Commission Joint Guidelines on Political Party Regulation](#), para. 263

state budget. If not, it would create an unnecessary financial burden for political parties, especially for non-parliamentary ones that do not receive state subsidies.

120. According to the Guidelines, “[g]enerally, legislation should grant oversight agencies the ability to investigate and pursue potential violations. Without such investigative powers, agencies are unlikely to have the ability to effectively implement their mandate. Adequate financing and resources are also necessary to ensure the proper functioning and operation of the oversight body.”⁸⁷ Similarly, the Committee of Ministers Recommendation’ Rec2003 (4) requires that “independent monitoring should include supervision over the accounts of political parties and the expenses involved in election campaigns as well as their presentation and publication.”⁸⁸ Article 16 of the Recommendation establishes that “States should require the infringement of rules concerning the funding of political parties and electoral campaigns to be subject to proportionate, effective and dissuasive sanctions.” When determining sanctions, all violations should uniformly incur proportionate, effective, and dissuasive penalties, with the proposed sanctions/fines being designed in a way to ensure their proportionality with the seriousness of a violation.⁸⁹
121. In the case of the present Law, the NAO is required to review all submitted reports and announce the results publicly within 60 days of receipt (Article 53). The same article requires the NAO to disclose individuals who donated more than MNT 1 million and legal entities that donated more than MNT 2 million. While the obligation to publicly disclose information is commendable, there is no requirement to publish such information on the organization’s website or make it readily available to the public when needed.
122. Under Article 53.2, the NAO is granted broad powers to oversee transparency in election financing. It is authorized to inspect donations, sources of funding, and expenditures of political parties, coalitions, and candidates, either independently or in cooperation with other state authorities. The NAO may request detailed information and supporting documents from these entities, as well as from relevant state institutions, officials, and private individuals. Furthermore, it is empowered to identify and document violations related to election financing and expenditures, and to forward such findings to the appropriate organizations or authorities for further action.
123. It’s noted that the oversight functions for political party financing are vested to the GEC. Such overlapping powers may lead to inadequate supervision, particularly when the roles and responsibilities of each institution are not clearly defined. It is also unclear how coordination among these institutions functions in practice, especially with regard to information sharing and access to information. **Overall, consideration could be given to centralizing political party finance oversight functions within a single body with enhanced capacity to detect and address illegal sources of funding, thereby ensuring greater transparency and accountability in political finance. If the division of responsibilities is to be maintained, the respective roles and coordination mechanisms should be clearly specified in the Law to avoid ambiguity. This would ultimately uphold the integrity of the electoral process and enhance public trust in democratic institutions.**
124. As already noted by ODIHR, “[g]enerally, legislation should grant oversight agencies the ability to investigate and pursue potential violations. Without such investigative powers,

⁸⁷ *Ibid*, para. 278.

⁸⁸ See the CoE Committee of Ministers’ Recommendation [Rec2003\(4\)](#).

⁸⁹ See the [ODIHR and the Venice Commission Joint Guidelines on Political Party Regulation](#), para. 272, which requires that sanctions should be applied against political parties found to be in violation of relevant laws and regulations and should be dissuasive in nature. Moreover, in addition to being enforceable, sanctions must at all times be objective, effective, and proportionate to the specific violation. See also ODIHR [Opinion](#) on Laws Regulating the Funding of Political Parties in Spain (30 October 2017), para. 67.

agencies are unlikely to have the ability to effectively implement their mandate. Adequate financing and resources are also necessary to ensure the proper functioning and operation of the oversight body.”⁹⁰ Similarly, the Committee of Ministers Recommendation’ Rec2003(4) requires that “independent monitoring should include supervision over the accounts of political parties and the expenses involved in election campaigns as well as their presentation and publication.”⁹¹

125. The auditing process alone may be ineffective if the oversight body relies solely on information submitted to it and cannot verify whether that information is realistic, accurate, or provides a complete picture of a contestant’s income and expenditures, including through the use of internal and external expertise where necessary. Moreover, without sufficient investigative powers, such as the ability to conduct on-site inspections, which the NAO does not have, it can be difficult for any oversight body to effectively detect illegal sources of campaign financing. **In this respect, it would be important to supplement the legislation to ensure that the NAO, or another independent body that would be chosen instead, has the power to follow up on alleged irregularities if it receives credible information of falsified reports or other serious financial violations. This institution should also be granted the authority to impose sanctions.**
126. The only sanction that is envisaged by this Law is that political parties that fail to submit their election expenses report within the prescribed timeframe will not be registered for the next election (Article 53.4). Good practices recommend a wide range of sanctions that are effective, proportionate, and dissuasive. Legislation may include measures such as administrative warnings (e.g., “naming and shaming”), fines, forfeiture, suspension or loss of public funding, compliance notices, deregistration, and/or criminal penalties. A prohibition to not register a party for the next election is disproportionate, especially considering that no warning mechanisms are available beforehand. **It is recommended to introduce fines with gradations, ensuring the highest penalties apply only for the most severe offenses.**
127. There are no details regarding infringements or other aspects of campaign finance, such as accepting illegal donations or breach of campaign spending limits. While these provisions might be covered under other legislation, their absence here leaves the campaign finance regulations incomplete. **For clarity and consistency, consideration could be given to including all applicable sanctions within this Law. In addition, sanctions should be specifically tailored to the type of violation, and the Law should be particularly clear about what type of sanction each respective violation entails. Also, if sanctions for the violations of this Law are detailed in other pieces of legislation, it would be important to ensure that they are cross-referenced and consistent.**

9. ELECTORAL DISPUTE RESOLUTION

128. The Law establishes administrative appeal mechanisms, while criminal liability is regulated under the Law on Offences and the Law on Civil Service (Article 79.1). Complaints alleging violations of electoral rights or challenging decisions or omissions by an election commission may first be submitted to the same commission. Decisions of that body can then be appealed to the hierarchically higher election commission (Article 80). Appeals against decisions of *soum* and district election committees are submitted to the *aimag* and capital election

⁹⁰ See the [ODIHR and the Venice Commission Joint Guidelines on Political Party Regulation](#), para. 278.

⁹¹ See [Joint Opinion](#) on the Draft Act to regulate the formation, the inner structures, functioning, and financing of political parties and their participation in elections of Malta, para. 43. See also [Joint Opinion](#) on the draft amendments to some legislative acts concerning prevention and the fight against political corruption in Ukraine, para. 36.

committees (see also Articles 14.2.7 and 15.2.3), and appeals against decisions of the latter are lodged with the GEC (see also Articles 16.6.8 and 16.7.5).

129. Disputes over most decisions of the GEC are to be handled through the administrative courts: first by the Appellate Court of Administrative Cases in the first instance, with appeals going to the Supreme Court following administrative procedures (Article 80.4). However, challenges to the GEC's decision concerning the delivery of election results fall directly under the jurisdiction of the Constitutional Court (Article 80.3).
130. Under Article 80.5, petitions, appeals, and claims regarding decisions made by election committees must be filed within seven days of the decision's issuance. Article 18.19 further stipulates that an election committee shall review and resolve an appeal and provide a written response to the appellant within three working days of its receipt. However, Article 80.1 states that the respective authority shall make the decision within the election year, which creates ambiguity as to whether this applies solely to criminal and administrative election-related offences or to all types of electoral complaints. Thus, this provision appears to allow for extended timeframes for resolving disputes, undermining the principle of timely and effective legal redress.⁹² As provided by international obligations and OSCE commitments, strong procedural guarantees are necessary, to ensure everyone's right to "effective means of redress against administrative decisions so as to guarantee respect for fundamental rights and ensure legal integrity, [including] the possibility for judicial review of such [...] decisions." **The Law would benefit from streamlining and clarifying the dispute resolution provisions, including establishing clear and timely deadlines for various types of electoral cases, while ensuring effective due process throughout the adjudication process.**⁹³
131. In addition, Article 80.7 provides that voters may report cases of illegal distribution of cash or goods to the police, supported by evidence. If such a violation is proven, the complainant is entitled to claim a monetary compensation equal to ten times the value of the distributed cash or goods from the guilty party. However, the Law does not clearly specify how due process is ensured in such cases, for instance, the procedures for verification, adjudication, or enforcement of such claims. **Further clarification and procedural safeguards would be necessary for adjudicating such offences.**
132. **At the outset, this section would benefit from substantial revision. For greater clarity and coherence, provisions related to electoral disputes, currently scattered across different articles, should be consolidated into a single, comprehensive section. This would improve the structure of the Law, enhance accessibility for stakeholders, and ensure a more consistent and transparent framework for resolving election-related disputes.**

10. COHERENCE OF PROVISIONS PERTAINING TO THE LAW ON POLITICAL PARTIES AND ELECTORAL LEGISLATION

133. ODIHR has, on several occasions, reviewed the Law on Political Parties to assess its compliance with international standards and OSCE commitments, particularly those relating to freedom of association and political participation. In its most recent Final Opinion on the

⁹² To ensure the right to an effective remedy, it is imperative that judicial procedures, including appeal and review, fully comply with international fair trial standards, as enshrined in Article 14 of the [ICCPR](#) and elaborated in [General Comment No. 32](#) of the UN Human Rights Committee. Furthermore, such procedures must be timely, accessible, and affordable, consistent with the obligations under Article 2(3) of the [ICCPR](#) and the Basic Principles on the Independence of the Judiciary. See also [OSCE 1990 Copenhagen Document](#), particularly paragraphs 5.10 to 5.18, which reaffirm the right to a fair and public hearing by a competent, independent, and impartial tribunal, and emphasize due process guarantees, including the presumption of innocence, access to legal counsel, and the right to appeal.

⁹³ See also [Guide on ECtHR caselaw on Article 6 of the ECHR](#).

Law on Political Parties of Mongolia, ODIHR observed that “many provisions of the Law do not align with the electoral legislation currently in force in Mongolia, and there is a strong need for harmonization of the legal framework.”⁹⁴

134. In this respect, ODIHR noted that such inconsistencies and fragmented regulation contribute to uncertainty in implementation and enforcement, potentially leading to unequal treatment of political actors and undermining the effectiveness and predictability of the legal framework as a whole. Therefore, **to strengthen transparency and accountability in political finance, a comprehensive approach should be considered to ensure alignment and consistency between the various pieces of legislation governing political party financing and campaign finance. This approach should be coordinated to uphold the overarching principles of equality, transparency, and accountability.**

10.1 Funding

135. According to the Law on Political Parties there are two distinct sources of funding: public and private. According to Articles 26.1 and 26.2, political party funding may include financial assistance (and indirect assistance as per Article 30) provided by the state, membership fees, donations, income derived from the party’s own property, and other income permitted by the Law.
136. Both the Law on Presidential Election and the Law on Parliamentary Elections identify donations, political party funds, and candidate funds as sources of campaign financing. However, neither law explicitly recognizes public funding. **While such funding could be interpreted as falling under “political party funds,” for better legal clarity and transparency, it would be preferable to explicitly acknowledge public funding in both laws.**
137. Article 3.1.13 of the Law on Political Parties defines donations as monetary and non-monetary assets in the non-monetary category. Under Article 31.3, granting the right to use or possess immovable or movable property or intangible assets; rendering services; granting exemptions from or discounts on payments; covering or bearing the costs of events; and providing sponsorship are evaluated as non-monetary contributions based on their fair market value. The requirement to assess their value based on market prices helps prevent circumvention of expenditure ceilings, as well as aligns with international good practice.⁹⁵
138. Similarly, both the presidential and parliamentary election laws provide that the value of an in-kind donation shall be determined based on the average market price, as agreed upon in the donation agreement (Article 50.4 and 55.4, respectively). However, they only include use and ownership of immovable and movable property and the provision of services in this category (Article 50.1 and 55.1). **Provided that in-kind contributions must be carefully accounted for in the financial statements on campaign expenditure, it is important that all categories are included and properly streamlined. While this may not make a significant difference in presidential elections, the exclusion of certain categories could result in unequal treatment, particularly since independent candidates are allowed to stand in parliamentary elections. This would also result in more accurate reporting and oversight.**
139. Article 33.8 of the Law on Political Parties clarifies that the amount of donation made by a legal entity to a party shall consist of the sum of donations made by the legal entity, its

⁹⁴ See ODIHR [Final Opinion](#) on the Law on Political Parties of Mongolia, para. 30-. See also [Opinion](#) on the Draft Law on Amendments to the Law on Political Parties of Mongolia.

⁹⁵ See the [ODIHR and the Venice Commission Joint Guidelines on Political Party Regulation](#), para. 216; see also ODIHR, [Opinion on draft laws of Mongolia on presidential, parliamentary and local elections](#) (25 November 2019), para. 43.

affiliates, subsidiaries, branches, and representative offices of a legal entity are included in donation limits to prevent circumvention. However, there is no equivalent rule in the parliamentary and presidential election laws with respect to the funding of election campaigns. In practice, this means that the respective limitations on private donations can be circumvented during the campaign period, rendering the provision of this Law ineffective. **It is thus recommended to harmonize the electoral laws with the Law on Political Parties in that respect.**

140. According to Articles 33.6 and 33.7 of the Law on Political Parties, the maximum amount of donations that may be received from a single citizen per year shall not exceed twelve times the minimum monthly wage (approx. EUR 2,640), while the maximum amount of donations from a single legal entity per year shall not exceed fifty times the minimum monthly wage (approx. EUR 11,000). For election-related donations, specific limits are set depending on the type of election. During the presidential election, cash donations shall be limited to up to MNT 3 million (approx. EUR 700) for individuals and up to MNT 10 million (approx. EUR 2,400) for legal entities (Article 49 of the respective law). In the case of parliamentary elections, cash donations shall not exceed MNT 10 million (approx. EUR 2,400) for individuals and MNT 30 million (approx. EUR 7,100) for legal entities (Article 54.1 of the respective law).
141. Capping donations has been shown to be effective in reducing the possibility of corruption or the purchase of political influence; hence, such limitations are welcomed. However, it is generally preferable for donation limits to be designed to account for inflation, for example, by linking them to an index such as the minimum monthly wage rather than setting absolute amounts. **Following this good practice, it would also be advisable to amend the election laws to establish donation limits based on the minimum monthly wage, rather than fixed cash amounts, thereby aligning them with the principles applied in the Law on Political Parties.**
142. Defining and prohibiting donations made on behalf of another person (commonly referred to as “straw donations”) is an important anti-circumvention measure, as it enables the oversight body to verify the legitimacy of donors in cases of suspected illegal financing. It is commendable that the Law on Political Parties includes explicit provisions prohibiting such practices (Articles 34.6.10, 34.10, and 34.11), reflecting on ODIHR previous recommendations. However, similar requirements are not incorporated in the election laws. **For legal coherence and to strengthen the integrity of political financing, it is recommended that these anti-circumvention measures be explicitly incorporated into election laws, ensuring transparency and accountability across the regulatory framework.**
143. Lastly, as in the case of the Law on Political Parties, electoral laws also fail to properly regulate so-called “third parties,” i.e., “*individuals and organizations who are not legally tied to, or acting in co-ordination with, any candidate or political party, but who nonetheless act with the aim of influencing the electoral result.*”⁹⁶ **It is essential that all laws be supplemented in this respect in line with the recommendations provided in previous ODIHR legal opinions.**

10.3 Reporting requirements

144. Article 34.2 of the Law on Political Parties stipulates that if a citizen or legal entity contributes above the donation limit, the total donation amount, along with previous donations and their respective dates, must be disclosed. There is no such requirement in other laws, where the

⁹⁶ See ODIHR-Venice Commission, [Guidelines on Political Party Regulation](#), para. 218. See also [ODIHR Note on Third Party Regulations in the OSCE Region](#) (2020).

only obligation for disclosure pertains to individuals and legal entities making donations, are required to include their name, registration number, and the source of the donation on the bank transfer slip, and donations that fail to meet this requirement must be returned by the recipient, or for donations with an unknown return address, shall be transferred to the state budget (Article 49.4 of the Law on Presidential Election and Article 54.4 of the Law on Parliamentary Elections). **Such inconsistency should be addressed.**

145. In addition, under Article 34.5 of the Law on Political Parties, political parties are required to verify the permissibility of donations they receive. In addition, political parties are required to maintain a searchable open database on their websites, publishing quarterly details of donations made by natural and legal persons equal to or exceeding twice the minimum monthly wage. This includes the donor's name, the donation amount, and the date of receipt, whether monetary or non-monetary (Article 34.1). In contrast, Article 51.3 of the Law on Presidential Election places the burden on the donor to demonstrate that they meet the requirements to make a donation and holds them responsible for any liabilities arising from a failure to fulfill this obligation, with a similar obligation set out in Article 56.3 of the Law on Parliamentary Elections. This inconsistency between the legal frameworks could weaken accountability. **For better oversight and transparency, the responsibility to verify, report, and return unsolicited or impermissible donations should rest with the political party, as envisaged by the Law on Political Parties. Regarding the disclosure of donor information, privacy considerations as outlined in the ODIHR Opinion should be fully implemented.**
146. While annual financial reporting is distinct from reporting on campaign financing due to its nature, certain aspects could be clarified and harmonized to ensure greater consistency across reporting requirements.
147. Political parties appoint internal auditors and undergo an external audit by a state-funded “legal entity of audit,” with the party leader responsible for confirming the accuracy of reports. In both parliamentary and presidential elections, election expense reports must also be audited by private auditing entities; however, neither law clarifies whether the cost of such audits is covered by the state budget or borne by the political party, creating potential uncertainty and financial burden for parties, which **should be clarified.**
148. The responsibility for verifying donations is also inconsistent: political parties are tasked with internal verification, whereas in election reporting, the burden falls on donors and, in some cases, on banks holding election expense accounts (Article 57.5 of the Law on Parliamentary Election and Article 52.5 of the Law on Presidential Election).
149. In addition, public disclosure requirements vary as well. Political parties must post financial reports on their own websites and on the GEC website. However, there is no such requirement for campaign finance reports. Laws should be amended to **provide for the publication of campaign finance reports in a coherent, comprehensive, and timely manner over an extended period of time.**⁹⁷
150. Lastly, the timing and frequency of reporting differ between presidential and parliamentary elections. In addition to post-election financial reports, political parties must submit an interim report three days before the election and final audited reports by parties and coalitions within 45 days after election day and by candidates within 30 days (Article 57.3). For presidential elections, similar rules exist under Articles 52 and 57, with audited election expense reports due 30 to 45 days after polling day, but there is no requirement for interim reporting. **Overall,**

⁹⁷ See ODIHR-Venice Commission, [Guidelines on Political Party Regulation](#), para. 259.

the provisions on campaign finance reporting should be reviewed to ensure more detailed, timely, and consistent reporting and disclosure across both types of elections.

10.4 Oversight

151. The GEC is the oversight body responsible for supervising political party financing, while the NAO oversees campaign finance. This reflects a coherent approach to supervisory obligations across the respective laws. However, within the election laws, there are overlaps between the responsibilities of the GEC and the NAO, with certain instances requiring information sharing or reliance on the other institution. This creates ambiguities in coordination and may hinder effective oversight. In line with previous recommendations, **consideration could be given to centralizing oversight functions within a single body with strengthened capacities to detect and address illegal sources of funding. This would ultimately uphold the integrity of electoral processes and enhance public trust in democratic institutions.**
152. Importantly, the body enforcing the relevant legislation should be granted adequate powers to effectively carry out these functions. According to the ODIHR-Venice Commission Guidelines on Political Party Regulation, “[g]enerally, legislation should grant oversight agencies the ability to investigate and pursue potential violations. Without such investigative powers, agencies are unlikely to have the ability to effectively implement their mandate. Adequate financing and resources are also necessary to ensure the proper functioning and operation of the oversight body.”⁹⁸ Similarly, the Committee of Ministers Recommendation’ Rec2003(4) requires that “independent monitoring should include supervision over the accounts of political parties and the expenses involved in election campaigns as well as their presentation and publication.”⁹⁹ The process of auditing alone may be rendered ineffective if the oversight body may do so solely on the basis of information submitted to it, and is not able to examine whether that information is realistic or accurate, and whether it presents an actual and complete picture of a contestant’s income and expenditures, with involvement of internal and external expertise where necessary.

11. PROCEDURE FOR ADOPTING THE LAW

153. The importance of an open, transparent, and inclusive lawmaking process throughout the development and adoption of the Law should be highlighted. In paragraph 5.8 of the 1990 OSCE Copenhagen Document, OSCE participating States have committed to ensuring that legislation will be adopted at the end of a public procedure.¹⁰⁰ 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”.¹⁰¹ The ODIHR Guidelines on Democratic Lawmaking for Better Laws (2024) underline the importance of evidence-based, open, transparent, participatory, and inclusive lawmaking processes, offering meaningful opportunities to all interested stakeholders to provide input at all its stages.¹⁰²

⁹⁸ See the [ODIHR and the Venice Commission Joint Guidelines on Political Party Regulation](#), para. 278.

⁹⁹ See also [Joint Opinion](#) on the Draft Act to regulate the formation, the inner structures, functioning, and financing of political parties and their participation in elections of Malta, para. 43. See also [Joint Opinion](#) on the draft amendments to some legislative acts concerning prevention and fight against political corruption in Ukraine, para. 36.

¹⁰⁰ See [1990 OSCE Copenhagen Document](#), para. 5.8.

¹⁰¹ See [1991 OSCE Moscow Document](#), para. 18.1.

¹⁰² 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.

154. 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.¹⁰³
155. In light of the above, the public authorities are encouraged to ensure that any 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, and 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 procedures 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 would efficiently evaluate the operation and effectiveness of the draft laws once adopted.¹⁰⁴
156. Moreover, ODIHR has consistently expressed the view that any successful changes to electoral legislation should be built on at least the following three essential elements: 1) clear and comprehensive legislation that meets international obligations and standards and addresses prior recommendations; 2) the adoption of legislation by broad consensus after extensive public consultations with all relevant stakeholders; and 3) the political commitment to fully implement such legislation in good faith, with adequate procedural and judicial safeguards and means by which to timely evaluate any alleged failure to do so.¹⁰⁵
157. Lastly, the Law does not reflect gender-inclusive forms, by instead using both masculine and feminine, which is inconsistent with established international good practice.¹⁰⁶ **It is recommended that, whenever possible, the reference to post-holders or certain categories of individuals be adapted to use a gender-neutral word, whenever possible. Alternatively, the plural form of the respective noun could be used instead of the singular (“they”).**

[END OF TEXT]

¹⁰³ See [ODIHR Guidelines on Democratic Lawmaking for Better Laws](#) (January 2024), paras. 169-170.

¹⁰⁴ See [ODIHR Guidelines on Democratic Lawmaking for Better Laws](#) (January 2024), para. 23. See e.g., OECD, *International Practices on Ex Post Evaluation* (2010).

¹⁰⁵ See, for example, ODIHR and Venice Commission [Joint Opinion](#) on amendments to the Electoral Code and other related laws concerning ineligibility of persons connected to political parties declared unconstitutional, para. 20.

¹⁰⁶ See, among others, ODIHR, [Guidelines on Democratic Lawmaking for Better Laws](#) (2024), para. 133; [Comments on the Law on the Assembly and the Rules of Procedure of the Assembly from a Gender and Diversity Perspective](#) (2020), paras. 105-107. See also [UN Guidelines for Gender-Inclusive Language](#) in Arabic, Chinese, English, French, Russian, or Spanish, to reflect the specificities and unique features of each language, recommending remedies that are tailored to the linguistic context; and [UN Disability-Inclusive Communications Guidelines](#), March 2022.