

## INTERNATIONAL ELECTION OBSERVATION MISSION

Mongolia — Parliamentary Elections, 29 June 2016

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### STATEMENT OF PRELIMINARY FINDINGS AND CONCLUSIONS

**Ulaanbaatar, 30 June 2016** – This Statement of Preliminary Findings and Conclusions is the result of a common endeavour involving the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) and the European Parliament (EP).

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The assessment was made to determine whether the elections complied with OSCE commitments, other international obligations and standards for democratic elections, and with domestic legislation. Both institutions involved in this International Election Observation Mission (IEOM) have endorsed the 2005 Declaration of Principles for International Election Observation.

This Statement of Preliminary Findings and Conclusions is delivered prior to the completion of the electoral process. The final assessment of the elections will depend, in part, on the conduct of the remaining stages of the electoral process, including the tabulation of results and the handling of possible post-election day complaints and appeals. The OSCE/ODIHR will issue a comprehensive final report, including recommendations for potential improvements, some eight weeks after the completion of the electoral process.

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### PRELIMINARY CONCLUSIONS

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Election day was orderly, following a competitive campaign. This, however, did not offset the impact of late fundamental changes in the electoral legislation on Mongolia's democratic development. The elections were highly contested and the freedoms of assembly and association were respected. Restrictive campaign provisions coupled with the media's subservience to political interests limited impartial and comprehensive information available for voters.

Following an inclusive process, a new election law was adopted on 25 December 2015, which consolidated various election laws, a positive development toward establishing a cohesive electoral framework. However, in May 2016, the parliament changed the mixed electoral system to a solely majoritarian one, established 76 single-mandate constituencies and approved their boundaries through a process that lacked transparency, public consultation and adherence to established criteria. It resulted in profound population discrepancies among constituencies, which is inconsistent with the principle of equality of the vote provided for by paragraph 7.3 of the 1990 OSCE Copenhagen Document and other international obligations and standards.

The elections were administered by a four-tiered election administration, headed by the General Election Commission (GEC). In preparation for election day, the GEC met key operational deadlines and fulfilled its mandate. At the same time, the GEC lacked transparency and accountability towards stakeholders, thus diminishing trust in the credibility of the process. Testing of vote counting machines was conducted by the GEC professionally in the presence of stakeholders. To address concerns over their accuracy and integrity, the law was amended to stipulate that up to 50 per cent of polling stations would be subject to a manual recount. However, procedures stipulating the manual recount were finalized only two days prior to the elections, which did not allow time for the relevant training of lower-level commissions.

Voter registration is passive and based on the national civil register that uses biometric data. A total of 1,910,878 voters were registered for these elections. Stakeholders expressed general confidence in the accuracy and inclusiveness of the voter register. However, persons declared incompetent by a court or those serving a prison sentence, regardless of the severity of the crime, are ineligible to vote. Following amendments in May, even after preparations had already been initiated, out-of-country voting was abolished for parliamentary elections, which effectively disenfranchised 150,000 citizens living abroad.

Candidate registration was largely inclusive, providing voters with a range of political choices. There was a total of 498 candidates, including 69 independents. However, contrary to OSCE commitments and other international obligations, the legislation sets disproportionate restrictions on candidacy rights, disqualifying a person for overdue debts or taxes, for not having completed compulsory military service as well as for having a criminal record regardless of the crime committed.

Despite undue campaign restrictions, the freedoms of assembly and association were respected and candidates were generally able to convey their messages to the electorate. Several large-scale promises by the ruling party distorted the fairness of the campaign. At times, the lines were blurred between the administration, both national and local, and parties. The OSCE/ODIHR EOM was made aware of multiple alleged instances of vote-buying, which resulted in a number of formal complaints and the deregistration of two candidates. These are the first elections that the State Audit Office (SAO) will audit contestants' campaign finances. However, key legal provisions enabling effective SAO oversight are still to be developed. Overall, campaign finance lacks key transparency measures.

All parties and coalitions complied with the 20 per cent gender quota provided by law, resulting in 26 per cent of contestants being women. However, there were no women candidates in more than one-third of the constituencies. While there is only one woman among the GEC members, women were better represented on lower-level election commissions. Overall, women remain underrepresented in political life.

The media offered extensive election coverage, but abandoned its intermediary role, primarily granting direct access to the politicians. Paid political advertisements and free airtime overshadowed editorial content, and campaign material prepared by political parties was also included within news programmes, disrupting credibility of the media. Consequently, voters were deprived of independent and analytical reporting.

The GEC received some 50 pre-election complaints. Courts reviewed 21 cases regarding candidate registration and the police handled over 1,000 campaign-related complaints. Although legislation clarifies to some extent the complaint and appeal process, a general lack of formalization and transparency in the process within the election administration and protracted handling of electoral disputes in courts undermined the right to an effective remedy.

Several civil society organizations monitored the pre-electoral environment, including campaign finance and the media's conduct, and issued timely statements highlighting key shortcomings of the process. They also contributed greatly to civic education and voter information initiatives on national and local levels. Five citizen observer groups were accredited to observe on election day, three organizations were denied accreditation.

Election day proceeded in an orderly manner throughout most of the country. Overall, voting was assessed as positive, although the secrecy of the vote was not consistently ensured. The IEOM's assessment of the vote count and tabulation of results notably departed from the positive assessment of voting with the principal cause being significant procedural errors or omissions. While the GEC

immediately released aggregated results on television, results were not broken down by polling station nor made available on its website, limiting the possibility of independent scrutiny.

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## PRELIMINARY FINDINGS

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### Background

On 29 January, the parliament scheduled parliamentary elections for 29 June. These elections took place against the backdrop of economic stagnation and public disillusionment with politics. Since 2012, the Democratic Party (DP) has maintained political preponderance, as it controls both the legislature and the executive and holds most gubernatorial seats in the *aimags* (provinces).<sup>1</sup>

Twenty four political parties are registered by the Supreme Court, of which five are represented in parliament. Among the parliamentary parties, the DP, Mongolian People's Party (MPP) and Mongolian People's Revolutionary Party (MPRP) have extensive party structures down to the municipality level.<sup>2</sup> Following the failure of the MPP and MPRP to form a coalition in April, several prominent MPRP politicians and local MPRP organizations shifted to the MPP. Around the same time, the DP was also joined by representatives of smaller parties.

The heads of the Constitutional Court and the Independent Authority Against Corruption were relieved of their duties in February and April, respectively. New heads have not yet been appointed, raising concerns that these two institutions playing an important role in the electoral process were left without effective leadership in the run-up to the elections.

The parliamentary elections were held on the same day as elections for the Citizens Representative *Khurals* (local parliaments) of the capital city and *aimags*. The IEOM will comment on these elections only to the extent that they impact on the conduct of the parliamentary elections.

### Legal Framework and Electoral System

Mongolia is party to key international human rights conventions. The 1992 Constitution establishes direct applicability of those instruments as domestic law and requires their fulfilment in good faith. The fundamental rights and freedoms that underpin democratic elections are enshrined in the constitution. The electoral legal framework primarily comprises the Constitution, the 2015 Law on Elections (LoE), the 2006 Law on the Central Election Body (LCEB), the 2011 Law on the Automated Election System, and General Election Commission (GEC) regulations.<sup>3</sup> However, the GEC does not have general authority to adopt regulations it deems necessary, as the LCEB and LoE narrowly limit the scope of the GEC's regulations. This impedes the GEC's ability to ensure consistent implementation of the electoral legislation.

Following an inclusive consultation process, a new election law was adopted on 25 December 2015. It consolidated various election laws, a positive development toward establishing a cohesive electoral framework.<sup>4</sup> The LoE addresses some previous OSCE/ODIHR recommendations concerning the legal framework, most notably on the complaints and appeals process and rights of voters with disabilities. However, most recommendations remain unaddressed.<sup>5</sup> Overall, the LoE contains a number of key shortcomings, including undue limitations on the right to vote and to be

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<sup>1</sup> Governors in 16 out of 21 *aimags*, as well as the mayor of Ulaanbaatar, are DP affiliates.

<sup>2</sup> The two other parliamentary parties are the Civil Will – Green Party and Mongolian National Democratic Party.

<sup>3</sup> Other relevant laws include the Law on Political Parties, Law on Assembly, Criminal Code, Law on Anti-Corruption, Law on State Audit, Law on Gender Equality, and various laws regulating the judiciary and media.

<sup>4</sup> Four laws regulating the presidential, parliamentary, capital city, *aimags*, *sums* (counties) and *duuregs* (districts) elections were consolidated in the new law.

<sup>5</sup> [See previous OSCE/ODIHR reports on Mongolia.](#)

elected and on campaign freedoms, as well as various gaps, contradictions and ambiguities. Following the LoE's adoption, 10 petitions were lodged with the Constitutional Court challenging various provisions on parliamentary elections.<sup>6</sup> Notably, a key provision that was included in the former parliamentary elections law, prohibiting any amendment within six months of an election, was omitted from the new law. This enabled the late introduction of fundamental changes in the electoral legislation, including to the electoral system.

The State Great *Khural* (parliament) comprises 76 members, elected for a four-year term. The LoE, at the time of its adoption, envisaged a mixed electoral system to elect the parliament, combining proportional and majoritarian components.<sup>7</sup> However, on 22 April, the Constitutional Court, in a swift decision on two petitions, invalidated the proportional component of the electoral system for violation of the constitutional provision for "direct" elections.<sup>8</sup> Despite parliament's constitutional right to request the court to review its decision, it accepted the ruling and, although there is no legal deadline to implement it, the LoE was amended on 5 May, establishing a fully majoritarian system.

In addition to implementing the court's decision, the parliament also amended the system to move from multi- to single-member constituencies, which increased their number from 26 to 76. There were no public consultations before these reforms were introduced. Such fundamental modification of the electoral system and other aspects of the electoral framework, less than two months before the elections, undermines international good practice and raises questions about whether the process was free from political influence.<sup>9</sup> As a result, members of parliament were elected under a first-past-the-post system in 76 single-mandate constituencies, among party- and coalition-nominated candidates and independents.

Additionally, the gender quota, which had been set in the new election law at 30 per cent of nominated candidates, was reduced to 20 per cent, representing a step backwards to increasing women's political participation.<sup>10</sup> At the same time, even after preparations had already been initiated, the parliament repealed out-of-country voting for parliamentary elections, disenfranchising some 150,000 citizens living abroad.

The LoE provides for a 50 per cent turnout in each constituency for the election results to be valid. If this turnout is not reached, additional polling is held in those polling stations that had less than a 50 per cent turnout with eligible voters being only those who did not participate in the initial voting. The LoE lacks clarity regarding the deadline by which additional polling must take place.

## Boundary Delimitation

The parliament is mandated to demarcate constituencies each election year upon a GEC proposal. It must consider the size of the population and the division of administrative units. However, the boundary delimitation process lacked transparency, public consultation and adherence to established criteria. On 11 May, the GEC submitted to parliament recommendations on how to

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<sup>6</sup> The petitions related to issues such as undue limitations on the right to be elected and to campaign freely. All but those that challenged the constitutionality of the proportional component of the electoral system were denied hearing on grounds that the claims were not substantiated. The court's decisions denying the hearings were not made public.

<sup>7</sup> Forty-eight members were to be elected in the majoritarian component in 26 multi-mandate constituencies, 28 were to be elected proportionally through a single nationwide constituency with a five per cent threshold.

<sup>8</sup> A mixed system existed in the former election law under which the outgoing parliament was elected. The first petition, lodged on 27 January, was denied hearing on grounds that the proportional system does not violate the constitution as previously ruled by the court in 2012; on appeal, on 29 February, a hearing was granted. The second petition lodged on 13 April, was joined with the first.

<sup>9</sup> Section II.2.b of the [2002 Council of Europe's Venice Commission Code of Good Practice in Electoral Matters](#) (Code of Good Practice) recommends that fundamental elements of electoral law should not be amended within the last 12 months before an election.

<sup>10</sup> Fourteen per cent of members in the outgoing parliament were women.

delineate the constituencies, which contained notable disparities in relation to the voters registered per electoral constituency.<sup>11</sup> On 12 May, the parliament redesigned and approved the boundaries of the 76 constituencies: 50 deviated by more than 15 per cent from the national average of 25,170 voters per constituency, with a maximum deviation of 66 per cent.<sup>12</sup> Such population discrepancies among constituencies are at odds with the principle of equality of the vote as provided for by paragraph 7.3 of the 1990 OSCE Copenhagen Document and other international obligations and standards.<sup>13</sup> In addition, there were nine *sums* where voters were divided between two or three constituencies, and several non-contiguous constituencies.<sup>14</sup>

## Election Administration

The elections were administered by a four-tiered election administration, comprising the GEC, 22 Territorial Election Commissions (TECs), 339 District Election Commissions (DECs) and 1,998 Precinct Election Commissions (PECs). The GEC has nine members, among them one woman, appointed by parliament for six-year terms.<sup>15</sup> TECs have seven to nine members, while DECs and PECs have five to seven members. Some 43 per cent of TEC members are women, with a higher percentage of female election staff at lower levels.

Commission members at all levels are civil servants who obtained election certification. TEC, DEC and PEC members were drawn from lists prepared by local administrations. Within the legal deadline, the GEC appointed 196 TEC members who then selected more than 2,000 DEC members and some 14,000 PEC members. There are no unified selection criteria to appoint commission members. The OSCE/ODIHR EOM received numerous reports on perceived political bias in the composition of TECs and DECs, particularly where the heads of gubernatorial and mayoral offices were commission chairpersons or secretaries.<sup>16</sup> This contributed to stakeholders' lack of confidence in the impartiality of lower-level commissions, even if not contravening the LoE. However, the appointments were rarely formally challenged.

The LoE requires the election administration at all levels to make decisions transparently, openly and by majority vote. However, most GEC meetings were conducted on an *ad hoc* basis without public notice, thus political parties, independent candidates and media for the most part did not attend the sessions. Moreover, not all resolutions were posted on the GEC website, nor were meeting agendas or minutes. Overall, the GEC lacked transparency and accountability towards stakeholders, thus diminishing trust in the credibility of the process.<sup>17</sup> The OSCE/ODIHR EOM

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<sup>11</sup> For example, Khentii *aimag* with 46,589 eligible voters was allocated three constituencies, while Dornod *aimag*, which has a higher number of eligible voters (49,276) was assigned only two. As a result, Khentii's constituencies are among those with the highest deviation from the national average.

<sup>12</sup> Paragraph 2.2 (iv) of the Code of Good Practice recommends that the permissible departure from the norm should not be more than 10 per cent and should certainly not exceed 15 per cent except in special circumstances (protection of a concentrated minority, sparsely populated administrative entity).

<sup>13</sup> See Article 25 (b) of the International Covenant on Civil and Political Rights (ICCPR). Section I.2.2.2 of the Code of Good Practice provides that "in order to avoid passive electoral geometry, seats should be redistributed...preferably outside election periods, as this will limit the risk of political manipulation...The political ramifications of (re)drawing electoral boundaries are very considerable, and it is therefore essential that the process be nonpartisan..."

<sup>14</sup> The smallest constituency in Khovd comprises 13,866 voters; the largest in Ulaanbaatar, Constituency No. 63 in Chingeltei, has 41,836 voters. Constituency No.33 in Uvs was divided into three non-contiguous parts. Baganuur, an area on the outskirts of Ulaanbaatar, was divided into four parts with each part attached to a different constituency, which is non-contiguous with Baganuur. The OSCE/ODIHR EOM was informed by election administrators and government authorities that such unusual distribution of constituencies was made to avoid the creation of constituencies dominated by any one ethnic grouping and the importance of parliamentarians to represent both the capital and the countryside.

<sup>15</sup> Two members are nominated by the president, two by the Supreme Court and five by the parliament.

<sup>16</sup> Reported for 10 TECs and 35 DECs from Ulaanbaatar and eleven *aimags*, namely Arkhangai, Bayankhongor, Bayan-Ulgii, Bulgan, Darkhan-Uul, Dornod, Govi-Altai, Khovd, Tuv, Uvs and Uvurkhangai.

<sup>17</sup> Some GEC members noted that meetings were often called with only 30 minutes' notice.

noted that TECs and DECAs largely mirrored the GEC's approach regarding transparency. The late adoption of the election legislation and the lack of clear guidance from the GEC led to some confusion among lower-level commissions and electoral contestants on how to interpret the law and what procedures to follow.

In preparation for election day, the GEC met key operational deadlines and fulfilled its mandate, despite the compressed election schedule. Cascade trainings for election staff were undertaken; ballots were printed and the voting material was delivered to respective polling stations in a timely manner.

Vote counting machines were used in each polling station. From 15 to 19 June, the GEC undertook professional testing of the equipment in front of parties and civil society organizations. Testing was also held locally across the country on 24-25 June in the presence of polling staff and police and in some cases party observers, primarily from the DP and MPP. When present, observers generally assessed the testing as positive. The GEC offered stakeholders the chance to review the source code of the machines; although none took up the opportunity (the vendor required that anyone viewing the source code would be required to sign a non-disclosure agreement).<sup>18</sup>

The GEC did not publish information on the functioning of the machines and independent certification of the hardware and software was neither required nor undertaken.<sup>19</sup> However, the vendor carried out its own verification of the software, which was accepted by the GEC as sufficient. While auditing of the machines is not required, the law was amended to stipulate that up to 50 per cent of polling stations would be subject to a manual recount, as a way to address concerns of stakeholders over the accuracy and integrity of the machines. However, the procedures detailing the recounts were finalized only two days prior to election day, which did not allow time for the relevant training of lower-level commissions. No guidance was provided as to the selection of polling stations beyond the indication of "up to 50 per cent" stated in the law, nor how to reconcile any difference between the manual and machine results. The GEC does not intend to publish any information concerning the results of the recounts, although it intends to offer scanned copies of ballots to verify the results.

Civic education and voter information campaigns started late and until two weeks prior to election day were not widely visible. However, since mid-June, many media outlets broadcast television spots, including in sign language, encompassing key elements of the new electoral system. The spots were produced by the GEC and other state agencies, as well as by civil society organizations, and aired on nationwide media and local broadcasters.

## Voter Registration

All citizens over 18 years of age have the right to vote, except those declared incompetent by a court or those serving prison sentences, irrespective of the gravity of the crime. These blanket provisions pose a disproportionate restriction, at odds with OSCE commitments and international standards.<sup>20</sup>

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<sup>18</sup> A source code is a text version of a computer programme that contains instructions for the computer to follow.  
<sup>19</sup> Recommendation 111 of the Council of Europe (CoE) [Recommendation \(2004\)11 on Legal, Operational and Technical Standards for E-Voting](#), which states that "Member States shall introduce certification processes". See also sections 6 and 7 of the Certification of E-voting systems Guidelines by the CoE.

<sup>20</sup> Paragraph 14 of United Nations Human Rights Committee (UNHRC) General Comment No. 25 to Article 25 of the ICCPR requires that "if a conviction for an offence is a basis for suspending the right to vote, the period of such suspension should be proportionate to the offence and the sentence." 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."

Voter registration is passive and based on the national civil register, which uses biometric data. Voter lists (VLs) were extracted from the National Civil Registration and Information Database and displayed for public scrutiny online from 1 March. From 9 June, VLs were available at respective polling locations or in the local administration buildings, as observed by the OSCE/ODIHR EOM. In small communities, PEC members on their own initiative were informing voters about mistakes in the VLs and encouraged them to formally request changes. Overall, there was an insignificant number of technical errors detected and stakeholders expressed general confidence in the accuracy and inclusiveness of voter register. A total of 1,910,878 voters were registered for these elections.

Voters are permitted to temporarily transfer to another polling location up to 14 days before election day.<sup>21</sup> In most constituencies, the number of voters who transferred did not exceed one per cent of the total number of registered voters. However, in four constituencies the number of transferred voters reached up to 20 per cent.<sup>22</sup> On 21 June, the DP and MPP lodged complaints with the GEC on the high number of transfers in five provinces; the GEC responded by stating that the transfers took place in accordance with the LoE. Some polling staff and police officers may not have been able to vote due to deployment away from their registered polling stations.

### Candidate Registration

A citizen who is at least 25 years old and has full legal capacity is eligible to be a candidate. However, the LoE sets disproportionate restrictions, disqualifying a person for overdue debts or taxes, for not having completed compulsory military service as well as for having a criminal record regardless of the crime committed or the sentence has been fully served.<sup>23</sup> Moreover, civil servants who plan to stand for election have to resign from their positions by 31 January, several months before the nomination starts. These restrictions are inconsistent with OSCE commitments and international standards on the right to be elected.<sup>24</sup>

Due to the late change of the electoral system, the parliament compressed deadlines for candidate registration from 57 to 25 days, posing constraints on the GEC. Nevertheless, candidate registration was largely inclusive, providing voters with a range of political choices. Twelve political parties and three coalitions were registered by the GEC. Two parties were denied registration; however, on appeal, the Supreme Court ordered the registration of the Civil Will – Green Party (CWGP).<sup>25</sup> Thirteen candidates were rejected on various grounds.<sup>26</sup> In particular, the protracted and multifarious manner in which the courts handled the MPRP leader's challenge to the GEC's rejection of his registration demonstrated key procedural shortcomings in the electoral dispute

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<sup>21</sup> A total of 18,309 voters requested to be temporarily transferred.

<sup>22</sup> A total of 2,778 voters requested to be transferred to Constituency No. 31 in Uvs, increased the number of registered voters by some 20 per cent; 1,909 voters requested transfer to Constituency No. 9 in Bagayankhongor, increasing the total number of registered voters by 11 per cent. In Constituency Nos. 39 and 37 in Khuvsgul the number of voters requesting transfers by represented some seven and five per cent, respectively, of the total numbers of voters.

<sup>23</sup> Under the current Criminal Code, a convicted person has a criminal record lasting between 1 to 10 years after the completion of sentence.

<sup>24</sup> Paragraph 15 of the UNHRC General Comment No. 25 to Article 25 of the ICCPR 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". Paragraph 7.5 of the 1990 OSCE Copenhagen Document provides that participating States will respect the right of citizens to seek political or public office without discrimination. Further, paragraph 24 provides that restrictions on rights and freedoms must be "strictly proportionate to the aim of the law." See also Section II.1.b of the Code of Good Practice.

<sup>25</sup> The National Labour Party was not registered due to irregularities in its registration documents.

<sup>26</sup> Three candidates had criminal records, three had overdue taxes or were missing the court document verifying no overdue loans or taxes, one had not resigned from a public service post, one was still a member of another party, three had an insufficient number of supporting signatures, and two were missing various documents required for registration.

resolution process.<sup>27</sup> Additionally, 19 other court cases against candidates' registration were not considered on merit or in a timely and transparent way, denying the right to an effective remedy. In the week prior to the elections, the GEC deregistered three candidates for campaign-related violations.<sup>28</sup> Ballots with the deregistered candidates' names were already printed and polling staff, reportedly, were instructed to notify voters that the candidates had been deregistered.

There were a total of 498 candidates, including 69 independents. Only the DP and MPP contested all constituencies. In a number of constituencies, the level of competitiveness was high, with 10 or more contestants; there were two constituencies with only two candidates. All political entities complied with the 20 per cent gender quota, with the DP and MPP nominating the lowest percentage of women.<sup>29</sup> Overall, 26 per cent of party candidates and 19 per cent of independents were women. In more than one-third of constituencies there were no women candidates. Some interlocutors suggested that to meet the gender quota, several parties nominated female candidates in likely unwinnable constituencies.

### Campaign Environment and Campaign Finance

The LoE establishes an unduly restrictive campaign framework that prohibits all types of campaigning that are not expressly authorized by the LoE. All campaign platforms must be pre-approved by the State Audit Office (SAO) for compliance with current development policies and economic viability.<sup>30</sup> This unnecessarily constrains the freedom of expression and political pluralism. Moreover, some aspects of the framework effectively favour members of parliament who stand for re-election.<sup>31</sup> There are additional legal provisions that disadvantage smaller parties and new political actors.<sup>32</sup> Despite stringent campaign provisions, the freedoms of assembly and association were respected and candidates were generally able to convey their messages to the electorate. The LoE shortened the official campaign period from 21 to 17 days.

The overall pre-campaign environment was calm, but tensions increased in late May when the MPRP announced a hunger strike in anticipation of the GEC decision to deny its party leader his registration as candidate. The hunger strike was called off after three days.

The campaign started on 11 June and the campaign silence period commenced 24 hours prior to election day. It featured rallies that varied in size and scope and there was active door-to-door campaigning across the country. The DP and MPP campaign activities were more frequent and attracted larger attendance; however, smaller parties also held rallies, as did independent candidates.<sup>33</sup> The atmosphere at rallies was generally peaceful, although there were a few reports of tension between supporters of rival parties.<sup>34</sup> Political actors purchased airtime for campaigning on

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<sup>27</sup> The GEC's decision to reject his candidacy was based on his current criminal record; the police explained that since one of the crimes committed was expressly excluded from amnesty under the 2015 Law on Amnesty, his criminal record had not been expunged.

<sup>28</sup> One independent and one from the MPRP for vote-buying and one from the MPRP for using a religious symbol.

<sup>29</sup> Both parties nominated 21 per cent of female candidates. Smaller parties nominated significantly higher percentages; the Civil Movement Party, for example, nominated 12 women, representing 44 per cent of its candidates.

<sup>30</sup> Platforms have to comply with the Law on Budget sustainability, the Law on Development policy and planning and a policy document "Mongolia Sustainable Development Vision 2030".

<sup>31</sup> According to the Article 77.13 of the LoE, if members of parliament, the president or a representative of local parliaments are standing for election, promotional material highlighting their achievements while in office is not counted as a campaign expense.

<sup>32</sup> OSCE/ODIHR EOM interlocutors raised concerns about the short campaign period, stringent provisions for campaign staff and that state funding is allocated only to parliamentary parties.

<sup>33</sup> The OSCE/ODIHR EOM observed 42 rallies (17 by DP, 16 by MPP, 6 by smaller parties and 3 by independent candidates).

<sup>34</sup> For example, on 18 June, a disruption occurred at a DP rally in Uvs and police had to remove protesters.



television and social media platforms. Campaign posters and billboards mushroomed in urban centres in the lead up to election day. There were many instances of candidates' material being defaced.<sup>35</sup>

The campaign centred on economic issues and social welfare, with parties promising to reduce unemployment, increase income, tackle corruption, and improve social security, with no significant ideological differences between the larger parties. The police informed the OSCE/ODIHR EOM about a number of complaints regarding anonymous and slanderous campaigning. The campaign included the release of several recordings of high-profile candidates.<sup>36</sup>

On 9 June, the government authorized the buyback of 30 per cent of shares in a state-owned mining company that were previously distributed to the public for free.<sup>37</sup> Other large-scale promises by the ruling party for the public's benefit further distorted the fairness of the campaign.<sup>38</sup> These moves triggered complaints to various authorities, including on alleged vote-buying.<sup>39</sup> The blurring of the lines between state and local administrations and campaigning was observed, with campaign events sometimes held inside government and state-owned premises, where only employees were invited to attend.<sup>40</sup>

Women actively participated in campaign events. During rallies observed by the OSCE/ODIHR EOM, more than half of participants were women, though mostly as attendees, and not as speakers. Female candidates were featured on posters and billboards, but the prominence of their campaigns depended on the financial means of individual candidates. Several women candidates, even those nominated by larger parties, reported difficulties in attracting sufficient funds to run their campaigns.

Election campaigns are financed by donations and/or from a candidate's own resources.<sup>41</sup> The LoE limits donations to MNT 3 million for an individual and to MNT 15 million for a legal entity.<sup>42</sup> Donations from labour unions, religious groups, non-governmental organizations and foreign entities are forbidden. All transactions should go through a designated bank account. Some candidates were asked to contribute funds to their parties to be nominated.<sup>43</sup>

There are limitations on expenditures per candidate per constituency as well as a ceiling for a political party's or coalition's nationwide campaign expenditure.<sup>44</sup> Notably, there are significant

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<sup>35</sup> In the first week of the campaign alone police received 174 complaints regarding damaged campaign material.  
<sup>36</sup> The audio and video footage of candidates from two of the major parties are perceived as significantly affecting the image and reputation of the individuals involved.  
<sup>37</sup> Each Mongolian citizen possesses 1,072 shares in the state-owned Erdenes Tavantolgoi mining company. Following the government's decision, some 1.65 million voting-age citizens obtained the right to sell their shares. More than 1.2 million citizens applied to sell 30 per cent of their shares for a fixed amount totaling MNT 300,426 (approx. EUR 150).  
<sup>38</sup> For example, on 28 June, the prime minister announced on public television several large-scale investment initiatives.  
<sup>39</sup> Complaints were submitted on 13 June by the Mongolian Traditional United Party (to the GEC) and on 16 June by the CWGP to the administrative court, Criminal Court and Constitutional Court.  
<sup>40</sup> For example: a road-opening event in Chinggis City (Khentii) was attended by the *aimag* governor, who was also a candidate. Several instances of campaign events (all by the DP), exclusively organized for civil servants at government and state-owned premises, e.g. police department, hospital, military units, registration office, were reported by the OSCE/ODIHR EOM in Bayan-Ulgii and Khentii *aimags*.  
<sup>41</sup> The chairperson of a smaller party indicated that his party was spending some MNT 40 million (18,000 EUR) per candidate; higher estimates were received for other parties, while some candidates indicated that they had no financing at all, and, as a result, would not be conducting active campaigns.  
<sup>42</sup> Approx. EUR 1,300 and EUR 6,600, respectively.  
<sup>43</sup> Interlocutors indicated that such contributions range from MNT 20 million (EUR 9,100) to MNT 100 million (EUR 45,000).  
<sup>44</sup> The campaign ceilings set by the SAO varied from MNT 85 to 225 million (EUR 38,000-101,000) per constituency. Each party could spend MNT 4.4 billion (EUR 1.9 million) on its nationwide campaign.

discrepancies in candidate spending limits per voter in different constituencies.<sup>45</sup> These are the first elections that the SAO will audit party and candidate campaign finances. Compliance with the campaign finance provisions can only be verified after the elections when contestants are required to submit their reports for audit.<sup>46</sup> Within 90 days, the SAO is required to publish its reports on contestants' campaign finance, including the names of individuals and legal entities that contributed more than MNT one million and MNT two million, respectively.<sup>47</sup> The lack of information available for public scrutiny prior to the elections limits transparency and accountability of campaign finance as well as the voters' ability to make a fully informed choice.<sup>48</sup> Fines for violations of campaign finance rules are relatively low. However, candidates are to be deregistered if a donation from a prohibited or anonymous donor is accepted and political actors who fail to submit campaign finance reports within the legal deadline are to be banned from competing in the next elections. Key legal provisions enabling effective SAO oversight are still to be developed.

## Media

The media sector is vivid, but marked by a lack of autonomy from political interests. There are ties between media and political actors and ownership structures are opaque. Despite limited advertising market, some 400 media outlets operate in Mongolia with television being the primary source of information. Internet and social media have become an alternative platform for news and exchange of information in urban areas.

Defamation is a criminal offence; charges against media and significant fines weaken media freedom and may induce self-censorship.<sup>49</sup> The LoE regulates the media during the campaign, with requirements for paid advertisements and free airtime and restrictive provisions for news coverage and debates.<sup>50</sup> On 26 April, the GEC and the Communication Regulatory Commission (CRC) jointly approved a regulation on election broadcast coverage.

The media offered extensive election coverage, but abandoned its intermediary role, primarily granting direct access to the politicians.<sup>51</sup> Consequently, voters were deprived of independent and analytical reporting. Free airtime overshadowed editorial content on the Mongolian National Public Radio and Television (*MNB*), which allocated 15 minutes to each of the 498 candidates. This led to an overwhelming seven hours per day of direct access, over which the media did not exercise editorial control. The *MNB* provided most of its news coverage to the larger political parties (26 per cent to the DP, 21 per cent to the MPP) most positive in tone and to the government's activities (42 per cent of the total coverage to national and local governments). Paid political advertising is prohibited on the public broadcaster. However, television spots promoting the achievements of the

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<sup>45</sup> Expenditures per voter per constituency varied from MNT 4,171 (EUR 2) to 8,580 (EUR 4).

<sup>46</sup> Candidates have to submit campaign finance reports within 30 days, and parties and coalitions within 45 days after the elections.

<sup>47</sup> Approx. EUR 470 and EUR 950, respectively

<sup>48</sup> Article 7 (3), of the United Nations Convention against Corruption reads "Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties."

<sup>49</sup> The OSCE Representative on Freedom of the Media (RFoM) advocated for abolishing criminal defamation in OSCE participating States as a precondition for media freedom to develop. Arrests of journalists for defamation in Mongolia raised the concern of the OSCE RFoM (see statements on [26 August 2014](#) and [22 July 2015](#)).

<sup>50</sup> The LoE stipulates for news programmes a ceiling of five minutes maximum per party per day and for debates the requirement of a minimum of four representatives of political entities or independents. Local broadcasters in districts with fewer than four candidates expressed concern over this provision.

<sup>51</sup> Between 26 May and 29 June, the OSCE/ODIHR EOM monitored primetime political coverage of five television channels (*MNB*, *Eagle TV*, *Mongol HD TV*, *TV5*, and *TV9*); morning news of one radio station (*MNB Radio1*); four newspapers (*Udriin Sonin*, *Unen*, *Unuudur*, and *Zuunii Medee*); and five online media (*ikon.mn*, *news.mn*, *polit.mn*, *shuud.mn*, and *sonin.mn*).

government were aired throughout the campaign, which under the law is not considered electioneering. Furthermore, the public radio devoted most of its news coverage to the executive. Other political entities and independent candidates received only a scant amount of news coverage.<sup>52</sup>

Most monitored television channels broadcast in their newscasts campaign material prepared by or paid-for by political parties thus blurring the line between news and political advertising. The OSCE/ODIHR EOM media monitoring noted instances of identical news stories aired by newscasts of different broadcasters.<sup>53</sup> The vast majority of broadcasters that submitted to the GEC their price lists for political advertisements also included prices for news reports.<sup>54</sup> Airing of paid-for news reports departs from legal provisions on election coverage, and is misleading for the voters.<sup>55</sup> However, different political positions were made available for voters.

The monitored private broadcasters showed some bias and paid political advertisements exceeded their news coverage. *Eagle TV* favoured the DP and MPP, with 26 per cent of news coverage each, *TV5* favoured the MPP, with 44 per cent, and *TV9* the MPRP, with 28 per cent. The tone of news coverage was widely positive towards the two major parties on all three television channels. *Mongol HD TV* did not air any paid political advertisements and devoted limited news coverage to the elections. All monitored broadcasters apart from *Mongol HD TV* organized debates among candidates, the DP and the MPP jointly attended only on *MNB*. While *News.mn* and *Ikon.mn* provided generally balanced coverage, other online and print media showed a similar polarization, with *Sonin.mn*, *Unen* and *Unuduur* favouring the MPP, *Zuunii Medee* and *Polit.mn* favouring the MPRP, *Udriin Sonin* and *Shuud.mn* the DP and MPP.

Various bodies are charged with overseeing the media during elections.<sup>56</sup> An overlapping jurisdiction hindered effective access to timely remedies. The CRC monitored the broadcasters' compliance with the law. On 22 June, it warned 15 broadcasters for exceeding time limits of paid advertisements. There is no unified channel to lodge media-related complaints, and these were consequently filed to courts, police, the GEC, the CRC, and to the Authority for Fair Competition and Consumer Protection (AFCCP). The AFCCP received 24 media-related complaints, 14 of which were dismissed, reconciled with the parties or forwarded to the police. Recommendations for sanctions were initiated in 10 cases. On 14 June, upon AFCCP recommendation, the CRC blocked access to 11 websites for defamation of an MPP candidate. Such a measure does not conform to the principle of proportionality.<sup>57</sup> However, on 16 June, after consultation with representatives of the websites, the AFCCP repealed its decision and informed the CRC to unblock the websites. On 24 June, upon a complaint logged by an MPP candidate over alleged defamation, the office of a media producing company was seized and searched by the police without judicial mandate.

Women candidates received an average of 17 per cent news coverage in the monitored broadcasters, closely reflecting the gender breakdown among the contestants. The monitored media respected the campaign silence period.

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<sup>52</sup> All other political entities received four per cent of the election related coverage on the *MNB*.

<sup>53</sup> For instance, campaign material from the MPP *YouTube* channel was broadcast in the news programmes of *Eagle TV* and *TV5*, as well as in the free airtime slots on the *MNB*. On 17 June, the anchor of the *MNB* evening news at 20:00 announced the airing of election campaign materials delivered by the DP and MPP.

<sup>54</sup> Forty-three channels submitted their records, out of which 30 included price lists for news stories.

<sup>55</sup> Article 2.2 of the GEC-CRC regulation on election broadcast coverage prohibits broadcasting election advertising during regular news programmes, and Article 3.17 prohibits hidden advertisements.

<sup>56</sup> The LoE and the LCEB tasks the GEC, CRC and AFCCP to oversee media's conduct during the electoral period. The GEC did not establish the media council due to conflicting provisions in various laws.

<sup>57</sup> In accordance with international standards, any restrictions of the right to freedom of expression must be proportionate to the aims that such restrictions pursue (see [General Comment No. 34](#) by the UNHRC on Article 19 of the ICCPR).

## Complaints and Appeals

In line with a previous OSCE/ODIHR recommendation, the LoE clarifies to some extent the complaint and appeal process. Although legal deadlines for the courts' resolution of election-related complaints were shortened, they remain unduly long.<sup>58</sup> Any individual or legal entity can challenge the legality of the "election organization process and activities" to a higher election commission. Appeals against the GEC's decisions and (in)actions are submitted to the Administrative Court of Appeal, with further appeal to the Supreme Court. This appeal system was set by amendment in February, soon after the LoE's adoption.<sup>59</sup> The Constitutional Court deals with cases concerning the constitutionality of the GEC's decisions, including on election results.

The LoE prescribes that the GEC must decide on complaints by a resolution of the commission in open sessions within three days upon receiving them. In practice, most complaints were dealt with by the GEC Chairperson or Secretary and other personnel through letters, phone calls, and personal communications. Those few complaints reviewed by the entire GEC were not recorded in formal resolutions. Moreover, substantive information on the resolution of complaints was not made public. The GEC received some 50 pre-election complaints, including on candidate registration and on the composition of election commissions. Despite procedural shortcomings, the GEC generally dealt with complaints in a timely manner. The courts, however, protracted the review of complaints until just before election day, undermining the claimants' opportunity to appeal. A lack of formalization and transparency in the complaints process within the election administration and protracted handling of complaints and appeals in courts undermine the right to an effective remedy.<sup>60</sup>

Under the LoE, the police play a key role in the enforcement of campaign regulations, in collaboration with the lower courts that impose penalties. Prior to election day, over 1,000 campaign-related complaints were filed with the police nationwide, most concerning minor offences.<sup>61</sup> In addition, a significant portion of the complaints received by the GEC was considered outside its jurisdiction, and under the purview of the police. This highlights the lack of stakeholders' knowledge of the appropriate venues to file complaints.

## Persons with Disabilities

Recent legal initiatives grant inclusion and advance the protection of electoral rights of persons with disabilities. Since 2009, Mongolia has been party to the UN Convention on the Rights of Persons with Disabilities. The 2016 Law on Human Rights of Persons with Disabilities recognizes their rights to political participation and compels political entities to make their campaign messages accessible to disabled persons, and to support their candidacy rights. Some political parties addressed issues related to disabilities in their campaign platforms and at some rallies. There was limited programming in the media tailored to advocate for the participation of disabled persons. One person with a disability stood for election.<sup>62</sup>

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<sup>58</sup> The Administrative Court of Appeal has up to 40 days to adjudicate election-related cases and the Supreme Court has up to 21 days to adjudicate on appeal. The Constitutional Court does not have a deadline for resolution of cases.

<sup>59</sup> At the time of its adoption, the LoE established that appeals against GEC decisions were to be lodged directly to the Supreme Court in the first instance, heard by a three-judge panel, with a further appeal to a five-judge panel.

<sup>60</sup> Paragraph 5.10 of the OSCE 1990 Copenhagen Document provides that "everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity".

<sup>61</sup> The National Police Authority reported on the number, subject and stage of investigation of election-related complaints; many regarded damage to campaign materials, defamation and libel of candidates, vote-buying, and interference with election campaigning.

<sup>62</sup> A Paralympic gold medalist was nominated by the Independence, Unity Coalition.

## Citizen and International Observers

The LoE provides for citizen and international observation. However, in order to be eligible to observe the elections, citizen organizations must be “committed to engaging citizens in managing state affairs” under their charters. Some OSCE/ODIHR EOM interlocutors described this requirement as overly restrictive. In addition, the GEC developed procedures for election observation by foreign and international organizations, as required by law.

Several civil society organizations monitored the pre-electoral environment, including campaign finance and the media’s conduct, and issued timely statements highlighting key shortcomings of the process. Civil servants cannot serve as observers and each accredited organization can deploy one observer per polling station. The GEC accredited five citizen observer groups. The Civil Society Network for Fair Elections, the largest citizen observer group, deployed more than 200 observers on election day. The GEC did not accredit the group Civil Fair Court because the president of the association was also a candidate in the elections; however, it did not announce this decision formally. Two more organizations were denied registration due to late submission of documents.

## Election Day

Election day proceeded in an orderly manner throughout most of the country.<sup>63</sup> The majority of polling stations observed opened on time or within 30 minutes; PEC staff were knowledgeable and robustly followed procedures.<sup>64</sup> Technical problems related to biometric voter identification and the vote counting machines were the main reasons for the late opening of 17 polling stations.

The secrecy of vote was not consistently ensured. The IEOM observed voters marking their ballots in secret, but often entering them into the vote counting machine face-up, thus exposing their choice. While commendable measures were undertaken to facilitate the voting of persons with impaired vision, only 35 per cent of polling stations observed were physically accessible for disabled voters. Police informed the OSCE/ODIHR EOM about 84 complaints on election day, including some concerning alleged vote-buying.

The IEOM observed mobile voting in 53 constituencies, noting the consistent application of procedures in both urban and rural areas. The secrecy of the vote was compromised in 34 of 91 observations, primarily concerning voters with mental disabilities.

Voting was assessed as positive in 98 per cent of polling stations observed, highlighting the uniform application of procedures. Problems noted by the IEOM included group and proxy voting that occurred in some three per cent of polling stations observed. Tensions caused by large numbers of temporarily transferred voters were observed in Bayan Ovo and in Bayanhongor. In 11 per cent of observations, voters’ understanding of procedures was assessed as insufficient. While citizen observers were present in one third of polling stations observed, party agents followed election day in almost all locations.

The assessment of the vote count and tabulation of results departed notably from the overall positive assessment of voting. Counting was evaluated as bad in 19 of 91 polling stations observed with the principal cause being significant procedural errors or omissions.<sup>65</sup> In 20 cases, PEC members faced difficulties in completing results protocols after the manual recount and figures did not reconcile in 16 cases. In nine cases, international observers assessed the counting process as lacking transparency. The tabulation at DEC’s was assessed as bad in one fourth of cases observed.

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<sup>63</sup> The IEOM observed in all *aimags*, except Govi-Altai and Zavhan.

<sup>64</sup> Opening was assessed positively in all but 3 of 94 polling stations observed by the IEOM.

<sup>65</sup> The IEOM observed closing and tabulation in 50 constituencies.

International observers lacked a clear view of the data entry process in 41 of 68 cases observed, and in 8 cases, DEC members changed the figures in PEC protocols.

The GEC released aggregated preliminary results by constituency immediately on television, contributing to the transparency of the process. However, results were not broken down by polling station nor made available on the GEC website, thus limiting the possibility of independent scrutiny. Voter turnout was reported at 73 per cent.

*The English version of this Statement is the only official document.  
An unofficial translation is available in Mongolian.*

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## **MISSION INFORMATION AND ACKNOWLEDGEMENTS**

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The OSCE/ODIHR established an Election Observation Mission to Mongolia on 20 May. It comprises a 14-member Core Team in the capital and 14 long-term observers deployed throughout the country.

On election day, the OSCE/ODIHR deployed 222 short-term observers who were joined by a 10-member delegation from the European Parliament. In total, there were observers from 33 countries. Opening was observed in 94 polling stations, while voting was observed in some 784 of a 1,998 polling stations across the country. The vote count was observed in 91 polling stations, and the tabulation of results in 60 DECs across the country.

The observers wish to thank the authorities of Mongolia for the invitation to observe the elections, and the General Election Commission and the Ministry of Foreign Affairs for the assistance. They also wish to express their appreciation to civil society organizations, political parties, media, and other state institutions, as well as the international community representatives for their support and co-operation.

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