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\* [CAC/COSP/IRG/2023/1](#).



## II. Executive summary

### Mongolia

#### 1. Introduction: overview of the legal and institutional framework of Mongolia in the context of implementation of the United Nations Convention against Corruption

Mongolia signed the United Nations Convention against Corruption on 29 April 2005 and ratified it on 11 January 2006.

The country's implementation of chapters III and IV of the Convention was reviewed in the first year of the first review cycle, and the executive summary of that review was issued on 25 August 2011 ([CAC/COSP/IRG/II/1/1/Add.1](#)).

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

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

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

#### 2. Chapter II: preventive measures

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

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

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

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

IAAC is legally mandated to operate independently, and it is prohibited for anyone to interfere in its operations (art. 16 of the Anti-Corruption Law). The head of IAAC is appointed for a term of six years by the Parliament, following a public hearing process

and nomination by the Prime Minister. The appointment of the deputy head of IAAC follows the same procedure, except that the deputy head is nominated by the head of IAAC (art. 21 of the Law). They can be removed from office only on the limited grounds specified in article 22 of the Law. IAAC is provided with sufficient funding.

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

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

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

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

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

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

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

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

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

The Code of Conduct for Officials of Administrative and Support Services was adopted in 2019 (through Decree 33/2019). It lists seven key norms that officials must adhere to, including obligations to be free from influence by political parties, to serve

the people wholeheartedly and to honour the reputation of the public service (art. 2.1 of the Code). Violations may result in disciplinary and “ethical” sanctions, such as a reprimand or an obligation to apologize (art. 4.2 of the Code). Violations of the Code of Conduct can be reported to IAAC, which deals with violations relating to conflicts of interest and corruption (art. 2.10 of IAAC internal decree A/60). If the behaviour is suspected of reaching the level of criminality, the matter is referred to the law enforcement authorities (art. 4.4 of the Code).

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

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

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

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

The prosecution service supervises the investigation of cases and participates in court trials on behalf of the State (art. 56 of the Constitution; art. 4.1 of the Criminal Procedure Code). The Law on the Prosecution Office contains provisions, including on salaries and emoluments, to guarantee the independence of prosecutors (art. 59). In 2018, the President promulgated the Code of Ethics for Prosecutors, which requires prosecutors to submit asset declarations (art. 7). Violations of the Code of Ethics are subject to disciplinary sanctions.

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

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

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

Procuring entities are required to advertise invitations to bid publicly in the mass media and in the e-procurement system (art. 21 of the Public Procurement Law). The procuring entity must award the contract to the bidder whose bid is selected as the lowest evaluated substantially responsive bid and provide bid rejection justifications to the other bidders (art. 29 of the Law).

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

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

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

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

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

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

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

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

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

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

Pursuant to article 15 of the General Administrative Law, persons who submit a request to an administrative organization, who are the subject of an administrative act, or who are affected by the decision-making process of an administrative organization, are entitled to access information on the administrative decision-making process and to obtain copies of relevant documentation.

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

Pursuant to article 26 of the Anti-Corruption Law, IAAC reports annually to the Parliament on the implementation of anti-corruption legislation and on general levels

of corruption in Mongolia. These reports are publicly available, and they include an overview of violations detected in public bodies and the results of surveys conducted by IAAC on, for example, the scope, forms and causes of corruption.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- IAAC monitors and evaluates the implementation of the Anti-Corruption Law (art. 6, para. 1).
- There is a fully digitalized written examination process for the recruitment and selection of civil servants (art. 7, para. 1).
- Mongolia has established an entity (the Civil Service Council) that is responsible for providing public officials appointed to managerial and executive positions with ethical guidance (art. 7, para. 1).
- IAAC examines potential candidates for managerial and executive positions at the request of the entities recruiting them (art. 7, para. 1).
- There is an e-government platform that provides access to over 600 public services (art. 10 (b)).
- The country has established the "Glass Account" Law, which aims to provide the public with an easy and transparent means of monitoring how and by whom public funds are spent (art. 13, para. 1 (b)).
- Mongolia actively contributes to the development and strengthening of regional and international cooperation in the fight against money-laundering, in particular through its participation in the Asia/Pacific Group on Money Laundering and the Egmont Group (art. 14).

## **2.3. Challenges in implementation**

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

Furthermore, it is recommended that Mongolia:

- Identify public positions that are especially vulnerable to corruption, and ensure that adequate procedures are in place for the selection and training of individuals for such positions and the rotation, where appropriate, of such individuals to other positions (art. 7, para. 1 (b)).
- Develop rules or methodologies to independently determine which procurement processes should be managed by the State Procurement Agency, rather than this being determined by the Government or line ministers on a case-by-case basis (art. 9, para. 1).



- Consider making the e-government platform available to all citizens, including those living outside Ulaanbaatar, to the extent possible (art. 10 (b)).
- Consider adopting codes of conduct for members of the judiciary (art. 11, para. 1).
- Consider promoting cooperation between law enforcement agencies (including those specifically entrusted with preventing and combating corruption) and relevant private entities (art. 12, para. 2 (a)).
- Explicitly disallow the tax deductibility of bribes and other expenses incurred in furtherance of corrupt conduct (art. 12, para. 4).
- Endeavour to enhance measures aimed at increasing transparency relating to the identity of shareholdings and the beneficial ownership of private entities (art. 12, para. 2 (c)).
- Take the necessary measures to further improve the supervision of designated non-financial businesses and professions for anti-money-laundering purposes (art. 14, para. 1 (a)).
- Consider defining bearer negotiable instruments subject to cross-border declarations (art. 14, para. 2).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mongolia has established a comprehensive financial disclosure framework. Articles 10 to 14 of the Anti-Corruption Law require a range of public officials, in addition to candidates for the presidency, the Parliament and citizens' representative

khurals, to declare their income, assets and liabilities, and those of their family members. The declarations cover assets, including financial accounts, held domestically or abroad, and should be submitted annually (by 15 February) and within 30 days of the date of employment, but not at the end of service. A declaration should also be submitted whenever there is a substantial change to declared income and assets.

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

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

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

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

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

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

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

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

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

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

Article 7.5 of the Criminal Code, on the confiscation of assets and income, establishes that income and assets gained through the commission of a crime should be allocated to damage compensation and criminal proceeding expenses, and any leftover amount should be paid into the State budget. This provision allows the courts of Mongolia to recognize another State party’s claim as a legitimate owner of property when having to decide on confiscation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Furthermore, it is recommended that Mongolia:

- Establish a comprehensive legal framework for international cooperation and asset recovery (art. 51).
- Consider reviewing its financial disclosure framework to also require appropriate public officials to declare their assets and liabilities at the end of service (art. 52, para. 5).
- Consider adopting measures requiring public officials having a signature or other authority over a foreign financial account to report that relationship to appropriate authorities and to maintain appropriate records related thereto (art. 52, para. 6).
- Take such measures as may be necessary to permit its competent authorities to give effect to an order of confiscation issued by a court of another State party in relation to offences established under the Convention (art. 54, para. 1 (a)).
- Consider taking measures to allow confiscation without a criminal conviction in cases in which the offender cannot be prosecuted by reason of death, flight or absence or in other appropriate cases (art. 54, para. 1 (c)).
- Take such measures as may be necessary to permit its competent authorities to freeze or seize property upon a foreign freezing or seizure order that provides a reasonable basis to believe that there are sufficient grounds for taking such actions and that the property would eventually be subject to an order of confiscation (art. 54, para. 2 (a)).
- Consider taking measures to permit its competent authorities to preserve property for confiscation, such as on the basis of a foreign arrest or criminal charge related to the acquisition of such property (art. 54, para. 2 (c)).
- Expressly provide for a mechanism for the return and disposal of assets in accordance with the provisions of article 57, paragraphs 1 and 3, of the Convention.

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

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