



Office for Democratic Institutions and Human Rights

MONGOLIA

PRESIDENTIAL ELECTION

9 June 2021

ODIHR Special Election Assessment Mission Final Report



Warsaw
22 October 2021

TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY	1
II.	INTRODUCTION AND ACKNOWLEDGEMENTS	3
III.	BACKGROUND AND POLITICAL CONTEXT	4
IV.	LEGAL FRAMEWORK AND ELECTORAL SYSTEM	5
V.	ELECTION ADMINISTRATION	6
VI.	VOTING TECHNOLOGIES	8
VII.	VOTER REGISTRATION	9
VIII.	CANDIDATE REGISTRATION	10
IX.	CAMPAIGN	11
X.	CAMPAIGN FINANCE	13
XI.	MEDIA	15
A.	MEDIA ENVIRONMENT	15
B.	LEGAL AND REGULATORY FRAMEWORK FOR THE MEDIA	15
C.	REGULATION OF ELECTION CAMPAIGN COVERAGE	16
D.	MEDIA COVERAGE OF THE CAMPAIGN	18
XII.	CITIZEN AND INTERNATIONAL OBSERVERS	19
XIII.	ELECTION DAY	19
XIV.	TABULATION AND ANNOUNCEMENT OF THE RESULTS	20
XV.	COMPLAINTS AND APPEALS	21
XVI.	RECOMMENDATIONS	22
A.	PRIORITY RECOMMENDATIONS	23
B.	OTHER RECOMMENDATIONS	23
	ANNEX – ELECTION RESULTS	26
	ABOUT ODIHR	27

MONGOLIA
PRESIDENTIAL ELECTION
9 June 2021
ODIHR Special Election Assessment Mission Final Report¹

I. EXECUTIVE SUMMARY

Following an invitation from the Mongolian authorities to observe the presidential election and in accordance with its mandate, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established a Special Election Assessment Mission (SEAM) on 21 May 2021 to observe the 9 June presidential election. The ODIHR SEAM assessed compliance of the election process with OSCE commitments and other international standards for democratic elections and with national legislation. The ODIHR SEAM did not carry out systematic or comprehensive observation of election-day proceedings, in line with ODIHR's methodology for election assessment missions; however, mission members visited a limited number of polling stations.

In its Statement of Preliminary Findings and Conclusions issued on 10 June 2021, the ODIHR SEAM stated that the 9 June 2021 presidential election was administered efficiently and that candidates were able to campaign freely, but underlined excessive limitations to candidate eligibility, as well as restrictive campaign and media rules, which adversely affected voters' ability to make an informed choice.

This presidential election followed parliamentary and local elections held in 2020, in which the ruling Mongolian People's Party (MPP) maintained a broad majority in the parliament and its control of a majority of provincial and local governments. Incumbent president Battulga Khaltmaa, elected in 2017 from the opposition Democratic Party (DP), could not stand for re-election following a Constitutional Court decision on 16 April 2021 that led to the application of a new term limit. The election was conducted in the context of increased COVID-19 prevalence, notably in the capital Ulaanbaatar, which created challenges for the election administration and for candidates' campaigns.

The presidential election was held under a revised legal framework, including constitutional amendments adopted in 2019 which reduced presidential prerogatives and limited presidential tenure to a single six-year term. A new Law on Presidential Elections (LPE) was adopted in 2020. The new framework is comprehensive and generally adequate for the conduct of democratic elections. However, several shortcomings identified in previous ODIHR reports remain to be addressed, in particular, the exclusion of non-parliamentary parties and independents from candidate nomination, restrictions on suffrage rights on the basis of intellectual or psychosocial disability, timelines for appeals that are inconsistent with electoral deadlines, restrictive provisions for campaign and media coverage, and insufficient oversight of campaign finance.

The election administration largely managed the technical aspects of the electoral preparations in an efficient and professional manner and complied with legal deadlines. Election commissions at all levels generally enjoyed the confidence of stakeholders. While only one member of the General Election Commission (GEC) is a woman, women were conversely well-represented in the lower levels of the election administration. Most decisions and regulations were published on the GEC website in a timely manner; however, sessions and their agendas were not announced in advance, detracting from transparency. In coordination with the GEC and the State Emergency Commission, the government issued a decree on COVID-19 prevention measures during the electoral period, which enabled the participation of affected voters that applied for alternative voting methods. Upon the

¹ The English version of this report is the only official document. An unofficial translation is available in Mongolian.

incentive of several CSOs, the GEC made efforts to facilitate the accessibility of election information for persons with auditory or visual impairments.

In this election, a required supplementary manual count was extended to all polling stations, which are also equipped with electronic vote-counting equipment. Stakeholders generally expressed confidence in the integrity and accuracy of the vote-counting system. Representatives of political parties and civil society were invited to a pre-election review of the source code and operational test of the machines, which enhanced transparency. All equipment is verified and certified by state institutions; however, an independent verification and certification of the equipment is not required by law, as was previously recommended by ODIHR.

Under the Constitution, citizens of at least 18 years of age have the right to vote. Voter lists are extracted from the civil registration database managed by the General Authority for State Registration (GASR), and biometric verification devices are used in polling stations for voter identification. While ODIHR SEAM interlocutors did not voice significant concerns over the accuracy or inclusiveness of voter lists, citizen observers underlined that their access to aggregated voter lists was insufficient to perform any systemic evaluation or survey. The LPE maintains excessive restrictions on voting rights for persons deprived of legal capacity, including on the basis of intellectual and psychosocial disability, and for those serving a prison sentence.

The GEC registered three candidates, all of whom were men. In line with previous ODIHR recommendations, restrictions on eligibility due to a criminal record or lack of military service were repealed. However, the legal framework retains excessive restrictions on the right to stand, including residency and descent requirements, and excludes citizens on the basis of intellectual or psychosocial disability and those indicted for corruption and crimes committed in an official capacity even without a conviction, at odds with international standards and due process. The right to nominate candidates is reserved to parliamentary parties, contrary to OSCE commitments. Despite previous ODIHR recommendations, the candidate registration period remains short and starts relatively late in the electoral process, which could undermine the right to an effective remedy on candidate registration decisions.

Candidates could campaign freely without undue interference, despite limitations on gatherings amid the pandemic, and health-related measures were generally respected at events observed by the ODIHR SEAM. The LPE is highly prescriptive on how candidates may organize their campaigns, listing the permitted activities and prescribing strict rules on staff, assets and materials and on the use of social media platforms by contestants. Campaigns were supported on several occasions by elected or politically-appointed public officials, which is allowed by the law. In the months ahead of the election, the government launched several state programs to provide subsidies and other benefits to different social groups, which amplified the visibility of the ruling party. A limited amount of campaign content and election-related information was available in minority languages.

The overall framework for campaign financing lacks sufficient oversight and transparency, and this results in limited information for voters about the sources of contestants' incomes. The State Audit Office (SAO), responsible for the oversight of campaign finance, does not carry out field monitoring activities during the campaign and therefore has limited capacity to verify reported donations and expenses. Certain improvements have been introduced to the process of submitting financial reports, but the SAO does not publish these reports, nor the full assessment and conclusions of its oversight.

The media environment is vibrant, but with some 500 media outlets competing for a limited advertising market, many are not financially viable and are exposed to political influence. The Constitution guarantees the freedom of expression and the legal framework for media is generally

sound. Nevertheless, ODIHR SEAM interlocutors noted that an increasing number of provisions relating to the prosecution of libel and false information lead to widespread self-censorship. Furthermore, overly restrictive regulations for broadcast and online media during the election campaign restrained their editorial freedom, reduced the role of media in conveying impartial information, and undermined the opportunity for voters to receive independent information on candidates and their platforms.

Election day proceeded smoothly without major incident, and procedures were followed in the limited polling stations visited by the ODIHR SEAM. The manual counting and reconciliation process lacks clear procedures in case of discrepancies, although none were reported by election officials. The short timeline for the submission of the GEC decision on election results and for the adoption in parliament of the law that instates the elected president may have negatively impacted the possibility of challenging the results, and the delayed publication of results disaggregated by polling station detracted from the overall transparency. The presence of citizen observers on election day served as a positive contribution to the process, but the procedure for their accreditation hindered their deployment, and their access to all stages of the electoral process could be improved.

The complaints and appeals system offers avenues for resolving various types of election-related violations and offenses, although many timelines remain protracted and inconsistent with electoral deadlines, potentially undermining effective legal redress. The law does not define the applicable standing, timeline and procedure for challenging election results.

This report offers recommendations to support efforts to strengthen the framework for the conduct of elections in Mongolia in compliance with OSCE commitments and other international obligations and standards for democratic elections. The ODIHR SEAM priority recommendations focus on repealing excessive restrictions on the right to stand, addressing certain rules on campaigning and media coverage, and enhancing the transparency and accountability of aspects of the process including in the work of election commissions and the regulation of voter registration, campaign finance and election observation. ODIHR stands ready to assist the authorities to address the recommendations contained in this and previous reports.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

Following an invitation from the Ministry of Foreign Affairs of Mongolia and based on the recommendation of a Needs Assessment Mission (NAM) conducted from 22 to 26 March 2021, the OSCE Office for Democratic Institutions and Human Rights (ODIHR) established a Special Election Assessment Mission (SEAM) on 21 May to assess the 9 June presidential election. The mission, led by Lolita Čigāne, consisted of 10 experts drawn from 7 OSCE participating States.² SEAM members remained in the country until 19 June.

The ODIHR SEAM assessed the compliance of the election process with OSCE commitments and other international obligations and standards for democratic elections and with national legislation. The ODIHR SEAM did not carry out systematic or comprehensive observation of the voting, counting and tabulation proceedings on election day, in line with ODIHR's methodology for election assessment missions. Mission members did, however, visit a limited number of polling stations on election day. This final report follows a Statement of Preliminary Findings and Conclusions released on 10 June.

² The SEAM Core Team comprised four women and six men.

The ODIHR SEAM wishes to thank the authorities of Mongolia for their invitation to observe the election, and in particular the General Election Commission (GEC) and Ministry of Foreign Affairs (MFA) for their assistance. It also expresses appreciation to other state institutions, the judiciary, political parties, media, civil-society organizations, international community representatives, and other interlocutors for their co-operation and for sharing their views.

III. BACKGROUND AND POLITICAL CONTEXT

Mongolia is a semi-presidential republic with executive power exercised by the government, led by a prime minister, as well as the president who holds prerogatives related to foreign policy and defense. The legislative power is vested in the unicameral State Great *Khural* (parliament).

On 20 January 2021, the parliament called for the eighth presidential election to be held on 9 June. This presidential election is the first since the constitutional reform in 2019 which narrowed presidential powers to the benefit of parliament and reduced the presidential tenure to a single six-year term. The election follows parliamentary and local elections held in 2020 in which the ruling Mongolian People's Party (MPP) maintained its broad majority in the parliament and its control of a majority of provincial and local governments.³

The current prime minister, Luvsannamsrai Oyun-Erdene, took office on 27 January 2021, following the resignation of Khurelsukh Ukhnaa, a move that was interpreted as confirmation of the latter's intention to run for the presidential election. Following the merging of the MPP and the Mongolian People's Revolutionary Party (MPRP), a reversal of their 2011 separation, the MPP nominated Mr. Khurelsukh as their candidate.

The incumbent president Battulga Khaltmaa, elected in 2017 from the opposition DP, was not eligible to stand for re-election following a decision of the Constitutional Court (CC) on 16 April 2021 which led to the applicability of the new single-term limit to this election (see *Legal Framework*). The Democratic Party (DP) approached the election amid internal divisions, as the leadership of the party was disputed following the 2020 legislative elections. Two rivalling factions emerged, one led by outgoing party head Erdene Sodnomzundui. Both factions claimed to legitimately represent the party and submitted presidential candidates to the GEC, which subsequently accepted the nomination of Mr. Erdene following a Supreme Court decision on the validity of his election as DP chairperson in 2017. In reaction, most DP lawmakers, who supported the other faction, initiated a sit-in and a hunger strike in front of the parliament, claiming the GEC had interfered with the party's internal affairs when it accepted the candidacy of Mr. Erdene (see also *Candidate Registration*). The Right Person Electorate Coalition (RPEC), having entered the parliament after the 2020 elections, participated for the first time in a presidential election and nominated former parliamentarian Enkhbat Dangaasuren as its candidate.

The election was conducted in a context of an increased prevalence of COVID-19 cases, notably in the capital Ulaanbaatar, creating challenges for the election administration and candidates' campaigns.

³ The MPP obtained 62 seats in the parliament, the Democratic Party (DP) 11 seats, the Right Person Electorate Coalition (RPEC), comprising the National Labor Party, the Justice Party and the Mongolian Social Democratic Party, 1 seat, and Our Coalition, comprising Mongolian People's Revolutionary Party (MPRP), Civil-Will Green Party, Mongolian Traditional United Party, 1 seat. The elected deputy of Our Coalition joined the DP parliamentary group after the merging of MPRP with MPP, as did the only independent deputy.

The presence and visibility of women in politics remains low. For parliamentary elections, the law provides for a 20 per cent quota for each gender on candidate lists, and the Law on Gender Equality requires that at least 25 per cent of the members of each registered party are women, in both their central and local organizations. However, the presence of women in parliament and other decision-making positions remains low.⁴ In this presidential election, all three candidates were men.

IV. LEGAL FRAMEWORK AND ELECTORAL SYSTEM

The electoral legal framework is comprehensive and generally adequate for the conduct of democratic elections. It primarily comprises the 1992 Constitution (last amended in 2019), the 2020 Law on Presidential Elections (LPE), the 2006 Law on the central election body, and the 2005 Political Party Law (last amended in 2020).⁵ Mongolia is party to major international instruments related to the holding of democratic elections.⁶

Constitutional amendments were adopted in November 2019 which, *inter alia*, reduced the tenure of the president to a single six-year term, increased the age requirement for presidential candidates from 45 to 50 years, introduced a membership quota of 1 per cent of the electorate for political party registration, and prohibited amendments to electoral laws within one year prior to scheduled legislative elections.⁷

In 2018, the parliament began the division of the 2015 Election Code into separate election laws, with the aim to reflect distinctive procedures and timelines for different elections. This process resulted in the adoption of a new Law on Presidential Elections (LPE) in December 2020.⁸ ODIHR SEAM interlocutors generally described the consultation process for the constitutional and electoral reforms as inclusive and participatory, but noted that the electoral legislation could benefit from additional revision. The revised framework partially addressed some prior ODIHR recommendations, notably by broadening opportunities for citizens to verify voter list data and removing restrictions on candidate eligibility on the basis of a criminal record or lack of military service. Other recommendations remain unaddressed, such as those related to the exclusion of non-parliamentary parties and independent candidates from candidate nomination, restrictions on suffrage rights on the basis of disability, protracted dispute resolution timelines, prohibition on campaigning between two rounds, and insufficient oversight of campaign finance.

The parliament should continue revising the electoral legal framework, with broad and inclusive consultations with electoral stakeholders well in advance of the next election, and in line with the recommendations in this and previous ODIHR reports.

⁴ Only 13 of 76 (17 per cent) members of parliament and 4 of 17 government ministers are women. No governors of the 21 provinces (*aimags*) are women.

⁵ Additional pieces of legislation relevant to elections include the 2016 Law on Administrative Procedure, 2017 Criminal Procedure Law, 2017 Law of Offences, 2011 Law on the Automated System of Elections (Amended 2020), 2006 Anti-Corruption Law, and 2016 Law on Human Rights of People with Disabilities.

⁶ Including the 1966 International Covenant on Civil and Political Rights (ICCPR), 1979 Convention for the Elimination of All Forms of Discrimination against Women (CEDAW), 1965 Convention on the Elimination of All Forms of Racial Discrimination (CERD), 2003 Convention Against Corruption (CAC), and 2006 Convention on the Rights of Persons with Disabilities (CRPD).

⁷ This provision is consistent with the [2002 Council of Europe's Venice Commission Code of Good Practice in Electoral Matters](#). Although included in the LPE, the provision applies only to parliamentary elections and in relation to changes to the electoral system, in accordance with the [2005 Venice Commission Interpretative Declaration on the Stability of Electoral Law](#).

⁸ A new Law on Parliamentary Elections was adopted in December 2019, and a Law on Local Elections in January 2020. ODIHR had previously recommended their consolidation.

The president is elected in a single nationwide constituency by direct suffrage. If no candidate obtains the absolute majority of all votes cast, a second round is held within two weeks between the two candidates that received the most votes. If neither candidate wins an absolute majority in the second round, a new election is scheduled. This situation could only occur if the number of blank ballots cast, which under the LPE are considered valid votes, are sufficient to prevent either of the two candidates from reaching an absolute majority.⁹ The law also requires an overall turnout threshold of 50 per cent of registered voters for the election to be valid. In case of lower overall turnout, additional polling is conducted in those precincts where the turnout was below 50 per cent. This situation has never occurred in presidential elections, but has occurred in legislative elections. ODIHR previously criticized this threshold due to concerns about logistical complications, challenges to the equality of the vote, and the potential to undermine the secrecy of the vote in small communities.

On 16 April 2021, the Constitutional Court (CC) issued a decision related to the newly introduced presidential one-term limit, in which it concluded that provisions of the LPE on presidential candidate eligibility were not in conformity with the new single-term limit in the Constitution.¹⁰ The parliament subsequently issued a resolution accepting the court decision, which effectively resulted in the applicability of the term limit to previously elected presidents, including the incumbent President Battulga, and excluded them from running. On 19 April, President Battulga issued an ordinance directing the Supreme Court to dissolve the MPP on the basis of “unconstitutional seizure of state power and militarization”.¹¹ The Supreme Court informed the ODIHR SEAM that no administrative or judicial actions have been taken on this matter.

V. ELECTION ADMINISTRATION

The presidential election was administered by a four-tiered structure, comprising the GEC, 22 Territorial Election Commissions (TECs) in the provinces (*aimags*) and the capital city, 339 District Election Commissions (DECs) in the capital city districts and rural districts (*soums*), and 2,087 Precinct Election Commissions (PECs). For out-of-country voting, a Central Commission was established within the MFA, with 44 branch commissions in diplomatic representations in 30 countries. While only one member of the GEC is a woman, women were otherwise well-represented in the lower levels of the election administration, comprising over 75 per cent of all electoral staff.

The GEC is a permanent body comprised of nine members appointed for six-year terms.¹² It is responsible for the registration of candidates, election preparations, election-day proceedings, and the tabulation of results, and the maintenance and implementation of the automated counting system. While the mandate of the current commission began in 2019, seven members were newly appointed in January and August of 2020, including the chairperson and secretary.

⁹ In the previous presidential election, 8.2 per cent of valid votes constituted blank ballots.

¹⁰ The Constitutional Court based its [16 April 2021 Decision](#) on the fact that the principle of non-retroactive application of the law does not apply to constitutional norms and therefore, constitutional amendments shall be effective as soon as they are approved. More specifically, the criteria and restrictions imposed on presidential candidates will apply from the date that the amendment came into force.

¹¹ See the [text of the ordinance](#) (in Mongolian).

¹² Five members are appointed by the parliament upon the proposal of the Standing Committee on State Structure, two are appointed by the president and two are appointed by the Supreme Court from among civil servants. The chairperson and secretary, who are permanent members of the GEC, are selected by the parliament upon the proposal of its speaker. Other commission members serve part-time.

Lower-level commissions, newly appointed for each election, were established within the legal deadlines and received online or in-person trainings.¹³ Following an open online registration, commission members were selected from a centralized database of trained and certified civil servants. In line with a prior ODIHR recommendation and to address possible bias within lower-level commissions, the GEC established additional selection criteria, including previous experience in elections, the absence of previous disciplinary sanctions, and number of years in service. The LPE provides for the *ex officio* appointment of the respective heads of governors' offices as chairpersons of TECs and DEC. While this approach may be consistent with the role of local governors in electoral logistics, it could nevertheless expose lower-level commissions to partisan influence. Nonetheless, most SEAM interlocutors expressed confidence in the overall professionalism of the election administration.

The election administration managed the technical aspects of the electoral preparations in an efficient manner and complied with legal deadlines. The GEC held regular sessions, mostly organised online due to pandemic-related restrictions on gatherings. Most decisions and regulations were published on the GEC website in a timely manner. However, sessions were not announced in advance, including that for the approval of the final results, which did not allow stakeholders to actively participate unless directly invited. The GEC informed the public about its activities through broadcast media, as well as on its website and social network sites. Nevertheless, the agendas and minutes of its sessions were not published, detracting from the transparency of its work and at odds with international standards on the availability of information of public interest.¹⁴

In order to enhance transparency and access to information of public interest, election administration bodies of all levels should hold open meetings, allowing for sufficient public notice, and publish decisions, agendas and minutes thereof in a timely and consistent manner.

In coordination with the GEC and the State Emergency Commission, the government issued a decree on COVID-19 prevention measures during the electoral period, including on the use of protective equipment, social distancing, requirements for campaign activities, and additional arrangements in polling premises and for affected voters. Mobile voting took place on 8 June, one day prior to election day, for 7,051 voters in self-isolation or quarantine or under treatment in medical facilities, and for 18,568 other voters eligible for mobile voting.¹⁵ Voters who tested positive or were placed in self-isolation or quarantine after the deadline were unable to vote. According to the GEC, the absence of specific procedures for such cases may have affected some 1,946 eligible voters.

To enhance the GEC's capacity to inform stakeholders on the election process, a Voter Education and Training Centre was established at the beginning of 2021. However, owing to constrained financial and human resources, the involvement of the GEC in voter education remains limited and is bolstered by close cooperation with civil society organisations (CSOs), which contributed

¹³ TECs were established on 29 March, DEC by 9 April and PECs by 10 May. The training of election officials was mostly conducted online. At the lowest level, this was supplemented by smaller-scale meetings and training sessions organized by individual DEC, at times conveyed in person, which primarily focused on issues requiring clarification and additional information reflecting changes adopted during the election period.

¹⁴ See paragraph 19 of the [2011 UN CCPR General Comment 34 on Freedom of Opinion and Expression](#): "To give effect to the right of access to information, States parties should proactively put in the public domain Government information of public interest. States parties should make every effort to ensure easy, prompt, effective and practical access to such information".

¹⁵ Voters could register for mobile voting by 2 and 5 June, depending on the category, if they could not attend polling in-person due to health reasons or due to confinement in healthcare or penitentiary institutions or if they qualified as public employees on duty on election day.

extensively to the production of voter education and information materials.¹⁶ In addition, the GEC published, in cooperation with the CSO Voter Education Centre, a citizen election guide in Mongolian and Kazakh with information on voters' rights and the election process, including on the use of voter identification and vote counting equipment, as well as public health measures.

The 2016 Law on Human Rights of Persons with Disabilities provides for the right of persons with disabilities to vote secretly and independently in accordance with the 2006 Convention on the Rights of Persons with Disabilities (CRPD).¹⁷ The LPE requires that at least one booth in all polling stations should be equipped for voters with limited mobility, and that those who are unable to cast a vote independently can request the assistance of another eligible voter of their choice. Upon the incentive of and in close cooperation with several CSOs, the GEC undertook considerable efforts in recent years to facilitate the accessibility of information about the electoral process for persons with auditory or visual impairments, including through adjustable text formatting on its website, Braille or audio versions of printed materials, and the use of subtitles or sign-language interpretation in voter education videos.

VI. VOTING TECHNOLOGIES

All polling stations are equipped with electronic vote-counting equipment (VCE), specifically with ImageCast Precinct optical scan tabulators developed by Dominion Voting Systems. These machines were procured in 2012 and have been used nationally in all subsequent elections. The VCE operate offline on election day and are connected to a network only after completion of the vote count, when preliminary results are transmitted to the GEC via a secure virtual private network (VPN).

The new LPE extended the requirement to conduct a manual count to all polling stations, an increase from the previous requirement of at least 50 per cent of all polling stations. To enhance transparency and public understanding of the VCE, the GEC tested the equipment in several stages in the presence of candidate and civil society representatives. These representatives were also entitled to conduct independent testing and were invited for an on-screen review of the source code and the system modifications for the presidential election, but were not granted direct access to the technical documentation. The results of the testing were not documented or published by the GEC. The only public source of information on this process was a report issued by a national CSO, the Mongolian Information Development Association (MIDAS). Despite a prior ODIHR recommendation, the law does not foresee the conduct of an independent verification and certification of the system, which could mitigate concerns regarding security and accuracy. All equipment is, nevertheless, verified and certified by state institutions in co-operation with the GEC.¹⁸ Although a few political figures questioned the integrity of the system, most ODIHR SEAM interlocutors expressed trust in the use of VCE.

To increase confidence in election technologies, the possibility for an independent third-party verification of the vote counting system should be clearly defined in law. The election administration should document all modifications and tests performed on the vote-counting equipment and make all relevant information available to the public, including process documentation, requests for changes, and change logs.

¹⁶ The ODIHR SEAM was informed that a prominent civil society campaign dedicated to increasing the electoral participation of young voters unexpectedly ended its activities shortly before the election, underscoring the need for authorities to ensure adequate information is conveyed for all voters.

¹⁷ Mongolia ratified the CRPD in 2008 and acceded to it in 2009.

¹⁸ The General Intelligence Agency and the Communications Regulatory Commission.

VII. VOTER REGISTRATION

Under the Constitution, citizens who are at least 18 years of age by election day are eligible to vote. Contrary to international obligations and prior ODIHR recommendations, the LPE retains excessive restrictions on voting rights for persons deprived of legal capacity, including on the basis of intellectual or psychosocial disability, and persons serving a prison sentence, irrespective of the gravity of the crime.¹⁹

The legal framework should be harmonized with the objectives of the Convention on the Rights of Persons with Disabilities by removing all restrictions on voting rights on the basis of intellectual or psychosocial disability.

The blanket deprivation of voting rights of citizens serving a prison sentence should be revised in line with international obligations.

The voter registration system is passive. Voter lists are extracted from the National Civil Registration and Information Database managed by the General Authority for State Registration (GASR), which is continuously updated and contains citizens' personal and biometric data.²⁰ Voter identity is verified on election day via fingerprint-scanning biometric devices in polling stations. Preliminary voter lists were published on the GASR website on 1 April. Voters could verify their own data and, new to this election, could also verify the records of all persons registered under their address. Verification of registration data could also be done at the PEC after the delivery of hard copies of voter lists by 15 May, with the possibility to request changes until 26 May.

Citizens residing abroad and intending to vote had to actively register with diplomatic missions between 20 April and 9 May. In total, 7,394 citizens registered to vote abroad, while according to the MFA, some 120,000 citizens of voting age reside abroad. Citizen observer groups told the ODIHR SEAM that more voter information targeting citizens abroad could have been disseminated to ensure higher registration and turnout. Out-of-country voting took place in diplomatic premises on 30 and 31 May.

Voters who could not be in their polling station on election day could request a temporary transfer to another polling station, but the transfer could only be requested in-person at the PEC of registration and had to be subsequently confirmed at the new polling station. Due to restrictions on internal movement related to containing COVID-19, this arrangement was of limited use for voters away from their place of registration and unable to return, including migrant workers and students. A total number of 22,392 voters requested a temporary transfer of their registration. Further, the LPE requires a suspension of address changes in the civil registry 60 days prior to election day. The rationale for

¹⁹ See paragraph 9.4 of the [2013 CRPD Committee's Communication No. 4/2011](#), which states that "Article 29 does not foresee any reasonable restriction, nor does it allow any exception for any group of persons with disabilities. Therefore, an exclusion of the right to vote on the basis of a perceived or actual psychosocial or intellectual disability, including a restriction pursuant to an individualized assessment, constitutes discrimination on the basis of disability, within the meaning of article 2 of the Convention". See also Articles 12 and 29 of the [2006 UN Convention on the Rights of Persons with Disabilities \(CRPD\)](#).

See also UN Human Rights Committee, [Yevdokimov v. Russian Federation, 9 May 2011](#), in which the Committee held that the blanket restriction on the right to vote based on criminal conviction without regard to the gravity of the crime was a violation of Article 25 of the ICCPR.

²⁰ For out-of-country voting, interested voters had to actively register with diplomatic missions in the period from 20 April to 9 May. According to the MFA, 7,394 voters registered to vote on 30 and 31 May.

this measure is not clear in a presidential election held in a single national constituency, and may have created further obstacles for voters.

The procedure for temporary transfer of voter registration could be simplified to facilitate the exercise of voting rights of citizens away from their place of voting.

The final voter lists, closed on 5 June, included 2,040,556 voters.²¹ The LPE does not explicitly regulate possible reversals of the temporary removal of voters in case the grounds for their removal ceased to exist after the official closure of voter lists, such as voters who completed a prison sentence or returned from abroad. However, temporarily excluded voters who could prove that they had recovered their eligibility at the PECs on election day were allowed to vote. On election day, the number of eligible voters in voter lists reached 2,041,985.²²

ODIHR SEAM interlocutors did not voice significant concerns over the accuracy or inclusiveness of voter lists. Some pointed to long-standing shortcomings in the national address system and the detection of some dubious records in certain areas, albeit not as a major cause for concern. Candidates were entitled to receive an electronic copy of the aggregated final voter list no later than three days before election day, whereas citizen observers could only inspect voter lists at individual PECs. Short time frames for in-person verification, in combination with the current limitations on access to aggregated voter list data, precluded possibilities for meaningful independent verification.

To further enhance confidence in the voter registration process, and while maintaining the integrity of personal data, political parties and citizen observers should be provided access to aggregated voter lists with sufficient time for independent scrutiny.

VIII. CANDIDATE REGISTRATION

Despite recent amendments, the legal framework retains several excessive restrictions to candidate eligibility. Prospective candidates must be born to Mongolian parents and reside in Mongolia for at least five years prior to the election. The 2019 constitutional amendments raised the minimum age for presidential candidates from 45 to 50 years. Prospective candidates must not have outstanding loans, debts or overdue income taxes confirmed by a court decision. The LPE also introduced a prohibition on candidacy for those indicted for corruption or crimes committed in an official capacity, even without a conviction, and maintained exclusions on the basis of intellectual or psycho-social disability or for those deprived of legal capacity by a court decision. In line with prior ODIHR recommendations, provisions restricting candidate eligibility due to a criminal record or lack of military service were repealed in the new law. However, overall, the requirements for eligibility remain overly restrictive and contravene OSCE commitments and international standards.²³

²¹ The total number of voters included in the voter lists was 2,151,329, out of which 110,773 were temporarily removed due to not complying with the eligibility criteria, i.e. being legally incapacitated by a court decision, serving prison sentence, and staying abroad for more than 60 days.

²² The final total number of eligible voters in voter lists, including voters registered for out-of-country voting, was 2,049,379.

²³ Paragraph 15 of the [1996 UN Human Rights Committee's \(CCPR\) General Comment No. 25 on 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 “respect the right of citizens to seek political or public office, individually or as representatives of political parties or organizations, without discrimination”. See also paragraph 24 of the 1990 OSCE Copenhagen Document and section II.1.b of the 2002 Venice Commission Code of Good Practice in Electoral Matters.

Undue restrictions on the right to stand, including on the basis of disability, residency or descent, should be revised in line with international standards.

Despite prior ODIHR recommendations and contrary to OSCE commitments, the possibility of nominating candidates is not extended to non-parliamentary parties and independent candidates, which potentially limited voters' choice in the election. Further, public employees intending to stand for office must resign from their posts by the end of the year preceding the election, months prior to the start of period for candidate nomination. Such a requirement constitutes an unnecessary hindrance to candidacy rights.

The law should be revised to provide for the possibility of nominations from non-parliamentary parties and of independent candidates.

Public employees should not be required to resign from their posts until the start of the period for candidate nomination.

According to the LPE, parliamentary parties may nominate candidates during a three-day period starting 40 days prior to election day – for this election between 30 April and 2 May, after which the GEC has three days to decide on the registration. The law provides for possible one-time correction of errors in the nomination documents. In view of the requirements which candidates must fulfil and the volume of nomination documents that must be presented, the periods for candidate nomination and registration, taking place late in the electoral calendar, seem too short and as such could undermine the right to an effective remedy in case registration is denied (see also *Complaints and Appeals*). Out of four nominations, the GEC registered three candidates by 7 May.

The nomination period of candidates should be extended and concluded earlier in the election calendar to allow sufficient time for the General Election Commission to register candidates and any court appeals to be finalized.

In order to be registered, prospective candidates are required to submit their election platforms not less than 37 days before election day to the State Audit Office (SAO), which verifies its fiscal feasibility and conformity with the country's "sustainable development vision". Following the review of the SAO, all nominated candidates in this election were requested to adjust and resubmit their campaign platforms. By law, a negative SAO conclusion may lead to the non-registration of a candidate by the GEC, raising concerns about excessive interference with the right to stand and freedom to campaign.²⁴

The requirement for candidates' electoral platforms to be confirmed by the State Audit Office for their adherence to specific policy-based requirements should be repealed.

IX. CAMPAIGN

The official campaign period took place from 24 May to 7 June. The LPE shortened the campaign time from 19 to 15 days, which some parties noted limited their capacity to reach out to voters already affected by the pandemic. Such circumstance benefited well-established parties that have more resources to access more regions of the country in this period.

²⁴ See also paragraphs 39 and 40 of the [2017 UN CCPR Concluding Observations on the sixth periodic report of Mongolia](#).

The LPE is highly prescriptive on how candidates may organize their campaigns, listing the permitted activities and prescribing strict rules on the quantities and format of staff, assets and materials. Positively, the law prohibits the distribution of money and goods to voters and campaign-related advertising at mass entertainment events. The law forbids calls for boycotting the election, contrary to international standards, as well as and the publication of opinion polls in an election year, which unduly limits the freedom of expression.²⁵ In addition, campaign activities are prohibited before additional polling in case of low turnout, during potential reruns following the invalidation of elections, and in the event of a second round.

The law should be amended to provide a less restrictive framework for campaigning, including regarding the type of activities permitted, as well as the assets and resources that can be used. Campaigning between the first and possible second round should be allowed.

Overall, the electoral campaign was low-key. Campaign materials such as billboards or banners and party convoys were barely visible in Ulaanbaatar. All candidates could campaign freely without undue interference, but apparent differences in resources were noted. The candidates organized some rallies and public events but generally refrained from direct interaction with voters, prioritizing the use of social media, particularly Facebook. At campaign events observed by the ODIHR SEAM, COVID-19-related measures were generally respected, and speakers were accompanied by sign language interpretation as required by the LPE.

In addition to issues within the presidential mandate, namely foreign policy and judicial matters, the candidates frequently campaigned on policy issues beyond presidential competences, such as the economy, investments, mineral resources, social welfare and pandemic-related measures. Issues related to women's and LGBTI rights or gender equality did not feature in the campaign and were almost absent in the candidates' platforms.²⁶ The option of casting a blank ballot as a protest vote, a tactic used by a number of voters in the previous presidential election, became a visible issue in the final days of the campaign, with some opposition figures encouraging this form of action.²⁷ Four days prior to the vote, the RPEC candidate, Mr. Enkhbat tested positive for COVID-19 and suspended his campaign activities. The MPP candidate, Mr. Khureslsukh also cancelled his closing event, while the DP candidate, Mr. Erdene, continued according to his planned schedule.

Online campaigning is regulated by the LPE, and its oversight is divided among several regulatory bodies. The law permits candidates to register a maximum of one website and one social media account to be used for campaigning. The purpose of this limit is not clear, and the ODIHR SEAM noted that each candidate was supported by several Facebook pages, some of which also sponsored political ads. The Communications Regulatory Commission (CRC) has an established cooperation with Facebook to oversee election-related content, but the terms of this cooperation and any potential enforcement mechanisms have not been made public.

²⁵ Article 19 of the ICCPR notes that “[the freedoms of expression and of imparting and receiving information] may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order (ordre public), or of public health or morals”. Paragraph 28 of the [2011 UN CCPR General Comment No. 34 on Article 19 of the ICCPR](#) states that “while it may be permissible to protect voters from forms of expression that constitute intimidation or coercion, such restrictions must not impede political debate, including, for example, calls for the boycotting of a noncompulsory vote”.

²⁶ Only MPP included one reference to gender issues in its platform, aiming for the suppression of gender stereotypes and the prevention of domestic violence.

²⁷ On election day, the number of blank ballots cast represented 5.92 per cent of valid ballots.

The ODIHR SEAM noted that the MPP and to a lesser extent DP campaigns were supported on several occasions by elected and politically-appointed public officials, who campaigned in their constituencies, capitalizing on their institutional positions. Although permitted, the law does not establish a strict separation between their administrative functions and the election campaign.²⁸ Some ODIHR SEAM interlocutors expressed concerns related to the misuse of state employees and resources for campaigning purposes. Some also raised concerns about the practice of vote-buying, especially in less affluent areas.²⁹

A prohibition of the misuse of administrative resources and public employees for campaigning as well as a clear separation between the official responsibilities of public officials and their canvassing activities should be clearly provided in the law. Authorities should take proactive steps to prevent and address any misuse or related violations.

In the months ahead of the election, the government launched several substantial state programmes to provide subsidies and other benefits to different social groups. Although these measures were legally imparted as responses to the economic and social impact of COVID-19, they amplified the visibility of the ruling party in the months leading up to the election.³⁰

Election-related information in minority languages was limited.³¹ Candidates produced some election materials in the Kazakh language, and GEC voter education effort included some brochures and social media contents in Kazakh. Media are not required by law to have programming in minority languages and the broadcast media, including the public broadcaster *MNB*, only aired election-related content in the Mongolian language.

X. CAMPAIGN FINANCE

Although certain improvements have been introduced to the process of submitting campaign finance reports, the overall framework for campaign financing lacks sufficient oversight and transparency. Candidates may finance their campaign with their own resources, from the assets of the nominating party, and through donations to the party's dedicated election account from individuals and legal entities (up to MNT 3 million and MNT 15 million, respectively).³² Contributors can donate only once per year to the party's election account, and should not have outstanding debts or overdue taxes.

²⁸ On 8 June, the CSO Youth Policy Watch filed a complaint to the police arguing that a vehicle belonging to the Law and Enforcement University of Mongolia was transporting chairs to be used during campaign activities of MPP. The file was supported by photo evidence. Paragraph B.1.1 of the 2016 Joint ODIHR and Venice Commission Guidelines for Preventing and Responding to the Misuse of Administrative Resources during Electoral Processes state that “the legal framework should provide effective mechanisms for prohibiting public authorities from taking unfair advantage of their positions by holding official public events for electoral campaign purposes, including charitable events, or events that favour or disfavour any political party or candidate. More precisely, reference is made to events which imply the use of specific funds (state or local budget) as well as institutional resources (staff, vehicles, infrastructure, phones, computers etc.).”

²⁹ On 14 June, the general prosecutor announced investigations of seven election-related crimes, five of them concerning cash distribution to voters.

³⁰ On 13 April 2020, the parliament approved several anti-epidemic measures which increased allowances per child and unemployment benefits, forgave pensioner loans, exempted taxes on certain imports, and other considerable social welfare benefits. From December 2020 to July 2021, the government also defrayed the utility bills of all citizens and increased the discount rate of refined coal.

³¹ According to the 2020 census, ethnic Kazakhs constitute 3.8 per cent of the population, mostly residing in the western province of Bayan-Ulgii and Ulaanbataar. Other minority groups include the Durvud (2.6 per cent), Bayad (2 per cent), Buriad (1.4 per cent), Zakhchin (1.2 per cent) and Dariganga (1.1 per cent).

³² One Euro is equivalent to approximately 3,150 Mongolian *Tugrik* (MNT).

Bank loans are prohibited for funding an electoral campaign, as well as donations from underage persons, trade unions, religious groups, foreign sources, and state or local government-owned legal entities. However, private legal entities that have contracts with public institutions are free to donate. In-kind contributions to candidates are also permitted upon signature of a donation agreement at a reported value aligned with the market price.

All campaign transactions must be conducted through a designated bank account for election expenses. There is no limit for the aggregated income collected in the account, but withdrawals during the election campaign shall not exceed the expenditure limit set by the SAO, which for this election was approximately MNT 8.1 billion per party.³³ However, breaches of the campaign spending limit do not incur any sanction. The election account must be frozen after the election, and unspent funds can be used for the next elections. This practice, in addition to the high ceiling on permitted expenditure, potentially creates an advantage for more established political parties.

The SAO is the primary entity responsible for the oversight of campaign finance, but does not carry out field monitoring activities during the campaign, although authorized by the LPE to do so. Consequently, it has little capacity to verify whether all campaign expenses and in-kind donations are included in the party's financial reports.

The State Audit Office should be provided sufficient resources to conduct effective monitoring of campaign financing, including field data collection of candidates' expenditures.

Despite previous ODIHR recommendations, parties are not required to submit or disclose pre-election reports on campaign income and expenditure, which limits the transparency of campaign financing prior to election day.³⁴ Positively, the SAO introduced an online platform and reporting template in this election, through which parties could submit their financial reports. These reports must first be verified by a private auditing service chosen by the respective party, and are due within 45 days of the election. The law prescribes that parties that fail to submit financial reports within the established deadlines are not to be registered for the next election.

The SAO must review the audited final reports and publish the results of its assessment within 60 days, and shall disclose individuals that donated more than MNT 1 million and legal entities that donated more than MNT 2 million. However, the law fails to guarantee sufficient transparency as it does not mandate the SAO to publish the party campaign reports on its website, nor does it specify how to publish the conclusions of the oversight and the level of detail of the data presented.

To enhance transparency and accountability, contestants' campaign finance reports and the State Audit Office's assessments should be posted online for public scrutiny. In addition, a requirement for the disclosure of contestants' income prior to election day, such as through the publication of interim financial reports, should be introduced to enhance voters' ability to make an informed choice.

The SAO has no authority to impose sanctions for lack of compliance with campaign finance regulations. Information on potential violations is transferred to other state institutions which are responsible for prosecuting them, such as the State Inspector of Taxation (on donor eligibility), the Ministry of Finance (on reporting), and the Central Bank (on account keeping). Most violations are

³³ Some EUR 2.5 million.

³⁴ Article 7.3 of the 2003 UN Convention Against Corruption provides that “[e]ach State Party shall also consider taking appropriate legislative and administrative measures... to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties”.

to be addressed through the courts, and any sanction is imposed in accordance with other relevant laws.³⁵

A fully functional and streamlined framework for effective, dissuasive and proportionate sanctions for campaign finance violations should be devised.

XI. MEDIA

A. MEDIA ENVIRONMENT

The media environment is vibrant, but with some 500 media outlets competing for a limited advertising market, many are not financially viable.³⁶ Many outlets are hence dependent on owners with political interests, and, according to several ODIHR SEAM interlocutors, often cede editorial services for payment. The increasing Internet penetration has contributed to social media, particularly Facebook, becoming a primary source of political information, alongside television (TV). Major broadcast and online media use Facebook to further disseminate their information content.

The public Mongolian Radio and Television, *Mongolian National Broadcaster (MNB)*, is the only broadcaster with almost nationwide coverage. It comprises five TV channels and three radio stations. The public broadcaster is governed by the Law on Public Radio and Television, which foresees its editorial independence. Its national council is composed of 15 members: seven nominated by the parliament, four by the president and four by the government for a six-year term. Yet, the public broadcaster's funding largely relies on the state budget, which is decided and approved on a year-to-year basis by the government and ruling majority, contrary to international commitments on public media's legal and financial independence.³⁷

Consideration should be given to strengthening the independence of the public broadcaster from possible political interference, in particular by revising its financing system.

B. LEGAL AND REGULATORY FRAMEWORK FOR THE MEDIA

The Constitution guarantees freedoms of expression and of the media. Overall, the legislation provides a sound framework for the media, and was recently enhanced by the 2019 Law on Broadcasting, which contains explicit requirements on disclosing media ownership and preventing the concentration of ownership.³⁸ The 1998 Law on Media Freedom prohibits state censorship, and defamation was decriminalized in 2017. Nevertheless, provisions prosecuting "false information" and slander, with excessive sanctions, remain or have been recently introduced in different laws.³⁹ Several ODIHR

³⁵ If the violation is related to taxation, the sanction is imposed in accordance with the General Law on Taxation. In cases of other violations, sanctions are imposed in accordance with the Law on Offence and the Law on Civil Service. If a violation is considered a criminal act, a criminal liability is imposed on the perpetrator.

³⁶ According to the [2020 Media Today Report of the Press Institute of Mongolia](#), there are 502 active media outlets in Mongolia: 140 TV channels, 51 radio stations, 157 print publications and 154 news websites.

³⁷ Paragraph 16 of the General Comment No. 34 to the ICCPR requires States to guarantee the independence and editorial freedom of public media, and to provide for sustainable funding.

³⁸ The legal framework also includes the 2001 Law on Communications, 1998 Law on Media Freedom, 2005 Law on Public Radio and Television, 2011 Law on Information Transparency and Right to Access Information, and 2019 Law on Broadcasting.

³⁹ Including Art. 13.4 of Criminal Code, introduced in January 2020: "In case of dissemination of obvious false information that insults person's honor, dignity and business reputation of the legal entity distributed through social media, a fine equal from 450 to one thousand 350 units shall be imposed or shall be sentenced to 240 to

SEAM interlocutors noted that these provisions contribute to widespread self-censorship among journalists.

Disproportionate sanctions for libel that may unduly restrict freedom of expression should be revised. Consideration should be given to repealing legal provisions on the dissemination of false information.

The Communications Regulatory Commission (CRC) is the main regulatory body for broadcast and online media. The CRC, *inter alia*, issues broadcasting licenses, oversees media compliance with the legislation, develops further regulations, and is vested with sanctioning power over broadcast and online media. The CRC is a state administrative body governed by a chairperson and six board members appointed for a six-year term by the prime minister. This appointment system leaves the regulatory body vulnerable to political influence and does not ensure its independence, contrary to international good practice.⁴⁰

Consideration should be given to transforming the Communications Regulatory Commission from a state administrative body with a board directly nominated by the government into an independent regulatory body, by revising the system for appointing its board members.

A self-regulatory body for print, online and broadcast media, the Media Council of Mongolia, was established in 2015. Since then it has developed a Code of Ethics, receives relevant media complaints, maintains dialogue with journalists on professional standards, and advocates for legal reform to further protect media freedoms in Mongolia.

C. REGULATION OF ELECTION CAMPAIGN COVERAGE

The conduct and coverage of the election campaign on broadcast media and the Internet is primarily regulated by the LPE.⁴¹ The election law requires the public *MNB* to offer 15 minutes of daily free airtime to each candidate, and allows up to 15 minutes of paid political content daily to each candidate on private broadcasters.

The LPE includes a provision for balanced news coverage, but is also overly prescriptive and contains numerous limitations to media outlets' editorial freedom. Namely, a ceiling of five minutes of news coverage per candidate each day on broadcast media; a prohibition on organizing interviews with candidates, as well as on airing current affairs programmes and talk shows using candidates' footage produced before the election campaign; and a requirement that election debates be aired only if all candidates participate. Moreover, the LPE allows broadcast media to air paid video content produced by political parties and candidates during news programmes, further reducing the space for independent editorial content (see also *Media Coverage of the Campaign*).

720 hours of community service, or right to travel shall be restricted for a period of one to three months.”. Art.14.8 of the Criminal Code and Art.31.4 of LPE prosecute the dissemination of false information during elections. See also Art. 12.3 and 13.3 of the Law on Prevention, Fighting and Mitigating Social and Economic Impact of Covid-19.

⁴⁰ The CoE Council of Ministers [Recommendation \(2000\) 23](#) requires defining clear appointment criteria in order to respect the principle of pluralism and to avoid domination by any political group or party.

⁴¹ Art. 41 and Art.42 of the LPE.

Provisions of the LPE on the use of online media during the election campaign are also overly restrictive. Several websites, the vast majority of which are news websites, along with their related social media accounts were required to register with the CRC before the beginning of the election campaign.⁴² However, the purpose of this registration is not clear, given that the LPE does not contain specific rules applicable to the registered websites, with the exception of a requirement to disable the comments section under election-related news articles. This provision proved to be largely ineffective, especially as most articles published by news websites were concurrently posted on their social network pages, on which comments are allowed. Contrary to international standards, the LPE foresees measures allowing the CRC to slow-down or shut-down social network platforms from the end of the election campaign until the day following the election.⁴³

Consideration should be given to repealing provisions of the Law on Presidential Elections which infringe the editorial freedom of offline and online media, as well as those permitting the conflation of news and paid content produced by political parties and candidates.

The oversight of broadcast and online media during elections is divided among several bodies including the GEC, the Authority for Fair Competition and Consumer Protection (AFCCP), and the CRC as the leading regulatory institution. The CRC monitors registered broadcast media's compliance with the ceilings for daily news coverage and for paid political content per candidate. It does not monitor respect of LPE's provision for balanced news coverage.⁴⁴ The oversight of broadcast media's election-related content, of online content, and of equal treatment in relation to political advertising is delegated to the AFCCP. Nevertheless, the latter does not have the capacity to fulfil this role, and was only able to monitor compliance with the prohibition of opinion polls.⁴⁵ The AFCCP's oversight is largely based upon complaints received. Its sanctioning power is mainly limited to issuing warnings; for further action it refers the violation to the CRC. The LPE grants the CRC vast sanctioning powers, including to suspend online and offline media outlets without judicial review, contrary to international standards.⁴⁶

In addition to the AFCCP, media-related complaints could also be lodged to the General Police Authority (GPA) and other state agencies.⁴⁷ The CRC received hundreds of media-related complaints from the AFCCP and the GPA, most of them regarding violations that occurred on Facebook and

⁴² For this election, the [CRC registered](#) 204 websites, 257 Facebook pages, 60 Twitter accounts, 11 Instagram accounts, 38 YouTube Channel and 10 applications and online sources. According to Art.42.1 of the LPE and Art. 3.1 of the CRC Guidelines, websites that are planning to host paid political content should be registered with the CRC. Yet, the latter informed the SEAM that there was no mechanism in place to oversee the use of paid political content online.

⁴³ See paragraph 43 of the [2011 UN CCPR General Comment 34 on Article 19 of the ICCPR](#). See also the [2011 Joint Declaration on freedom of expression and the Internet](#) of the UN, OSCE, OAS and ACHPR. "... Cutting off access to the Internet, or parts of the Internet, for whole populations or segments of the public (shutting down the Internet) can never be justified, including on public order or national security grounds. The same applies to slow-downs imposed on the Internet or parts of the Internet."

⁴⁴ For this election, the [CRC registered](#) 110 TV channels and 51 radio stations for airing paid political content. The CRC outsourced their media monitoring to an external company, Maxima Consulting, which sent regular reports to the CRC and notified it of violations.

⁴⁵ Art. 43.8 of the LPE forbids the publication of opinion polls from the 1st January of the election year. The CRC informed the SEAM that from 1st January to election day, the AFCCP had detected 470 violations on Facebook. The violations were reported to the CRC, and the latter reported them to Facebook, which took actions in 275 cases.

⁴⁶ See the [2020 Joint Declaration on freedom of expression and elections in the digital age](#) of the UN, OSCE, OAS and ACHPR. See also paragraph 5.10 of the 1990 OSCE Copenhagen Document.

⁴⁷ The CRC informed the SEAM that they received information from the General Police Authority about 363 instances of violations on Facebook of prohibitions on disseminating false information. The CRC reported those violations to Facebook, which took actions against 16 of them.

related to provisions forbidding opinion polls and/or the dissemination of false information. The CRC reported these to Facebook, which, according to the CRC, reacted to almost half of the reports received. Detailed information on complaints received and actions taken was not made public, raising concerns about the transparency of the process. The division of tasks and responsibilities among several bodies is not effective and is detrimental to the transparent enforcement of the LPE in media-related matters.⁴⁸

Sanctions levied against media should be subject to judicial review and the suspension of media outlets should require a court order. Consideration should also be given to unifying the oversight of media and handling media-related complaints under a single independent, accountable, and transparent body with sufficient resources.

D. MEDIA COVERAGE OF THE CAMPAIGN

Broadcast media contributed to voters' information on technical aspects of the electoral process. However, they served mainly as a platform for candidates to convey paid political content and offered limited independent information to voters about electoral programmes. Civil society interlocutors underlined a lack of analytical reporting or discussion of candidates' electoral platforms. Most broadcast media met by the SEAM, claimed that the restrictive regulation of the election campaign leaves extremely limited space for editorial coverage and exposes them to high fines if found in breach of any LPE provisions. Consequently, many preferred to abdicate their role to independently inform the public and sold, as permitted by law, parts of their news airtime for the paid content of political parties and candidates. This widespread practice blurred the line between news and political advertising and significantly reduced opportunities for voters to make an informed choice.⁴⁹ Online media also complained about overly restrictive regulation, and mainly limited their coverage to reporting on candidates' campaign activities and publishing paid-for articles.

A highly anticipated candidates' debate, due to take place on *MNB* on the last day of the campaign, was cancelled amid disagreements between contestants about an alternative format following Mr. Enkhbat's COVID-19 diagnosis. Civil society organisations and online news media that were planning to conduct a live fact-checking of the debate, proposed for the debate to be held online allowing all three candidates to participate, but this was not successful. Presidential election debates are a long-standing practice in Mongolia and are particularly crucial to the formation of voters' choice in a context where campaign coverage may be lacking in content, and where the debate is the only opportunity to see candidates debating between themselves.⁵⁰

In line with the law, the public broadcaster offered free airtime to all candidates during the election campaign. According to the CRC media monitoring, broadcasters largely abided by the rules pertaining to the ceilings for news coverage and paid political content. The NGO Globe International Center (GIC) also conducted a monitoring of a sample of TV channels. In their post-election press conference, they reported several minor violations of the five minutes news coverage ceiling, praised the voter information provided by TV channels, but underlined that most of the news coverage on the candidates was paid political content. Issues relating to women's participation were missing from the

⁴⁸ ODIHR previously recommended unifying the oversight of broadcast media under a single independent and accountable body with sufficient resources.

⁴⁹ Art.3.7 of the [CRC Guidelines for broadcast media](#) coverage of the 2021 presidential election, which requires separating paid news from other news in the same news program does not constitute a sufficient guarantee of clear separation between editorial news content and promotional paid-for content.

⁵⁰ On the last night of the election campaign the DP and RPEC candidates joined a discussion on the social platform Clubhouse and answered three policy-related questions. The discussion was followed by 8,000 persons, the maximum number of participants allowed by this social platform in the same room/discussion.

electoral media coverage; however, the SEAM positively noted that almost all editors-in-chief and media NGO representatives met were women.

XII. CITIZEN AND INTERNATIONAL OBSERVERS

The LPE provides for citizen and international observation, as well as for the presence of candidates' representatives. The LPE guarantees observers' access to the sessions and activities of election bodies at all levels, the right to document the voting process with video and audio recordings, and to request VCE result printouts and digital images of the ballots cast. Yet, the law does not distinguish between partisan and non-partisan citizen observers, and the registration procedure is cumbersome. Indeed, under the LPE, each citizen observer is required to register with each individual PEC where they wish to observe. While there is no limit to the number of PECs at which observer organizations could register, this decentralized registration process creates an unnecessary hindrance to the deployment and observation of citizen observers.

The GEC accredited 150 citizen observers from three CSOs and 83 international observers.⁵¹ In addition, 4 citizen observers and 14 partisan observers were accredited to observe out-of-country voting.⁵² The Civil Society Coalition for Fair Elections conducted long-term observation, including of voter registration, media coverage, campaign finance, VCE, and election day procedures.⁵³ The Coalition member organisations presented their findings at press conferences before and after the election. For the first time, the Parent-Teacher Association Mongolia deployed observers, including observers with various types of disability, to assess the accessibility of the process. The GEC met representatives of observer groups shortly after the election to discuss their findings and recommendations for improvement of the electoral process.

Two citizen observer groups accredited by the GEC reported that some of their observers experienced difficulties and hostile treatment at several PECs during registration, and had faced undue obstacles at all levels of the election administration. Representatives of these groups attributed these obstacles mostly to a lack of awareness of PEC staff of the respective procedures and observers' rights.

The framework for citizen observation could be improved. The requirement for citizen observers to register for each individual polling station could be revised and trainings provided to election officials should include sufficient information on observers' rights and related procedures.

XIII. ELECTION DAY

The ODIHR SEAM did not observe election-day proceedings in a systematic or comprehensive manner. In the limited number of PSs visited, the process appeared to be well organized and administered. The campaigns generally appeared to respect the silence period, but the ODIHR SEAM received reports of mobilization calls by political parties on election day, challenging legal requirements on the neutrality of voter information and on campaign silence.

The GEC reported only minor technical problems with the vote-counting equipment, which were promptly resolved on-site. According to the GEC, some 670 inquiries were received via the election hotline, mostly related to confirming the locations of polling stations; others related to unofficial

⁵¹ In addition, the CSO MIDAS was accredited as an organisation to observe the electoral process.

⁵² An application submitted by the Right Person Electorate Coalition was rejected due to late submission.

⁵³ The coalition consists of the Open Society Forum, Globe International Centre, Mongolian Centre for Investigative Reporters, MIDAS, and Youth Policy Watch.

complaints regarding organisational issues in the PSs, prolonged interruptions of the voting process due to disinfection of the polling premises, positioning of surveillance cameras compromising the secrecy of vote, and non-usage of ballot secrecy sleeves. The GEC also received 35 complaints from citizen observer groups on undue restrictions on their observer rights, in particular for not being allowed to use technical devices to document the process although not prohibited by law, being restricted in access to information, and not being provided required documents such as digital images of the ballots.

After the closing of polls and the transmission of results from the VCE to the GEC, PECs conducted a supplementary manual count. The law provides that the results of the VCE are official, but neither the LPE nor GEC procedures address possible instances of discrepancies between the VCE and manual count. While PECs did not report any discrepancies in results data in this election, other procedural errors and omissions reported by citizen observer groups during the manual count, such as not displaying marked ballots, or non-adherence to the required sequence of procedures, suggested a lack of uniform guidance on this stage of the process.

To ensure consistency and transparency in the counting process, clear procedures for rectifying discrepancies between electronic and manual counts should be established.

The GEC provided regular information on election day developments, which contributed to the transparency of the process, and continuously published disaggregated turnout data on its website during election day. The preliminary national turnout was announced at 59.35 per cent.

XIV. TABULATION AND ANNOUNCEMENT OF THE RESULTS

Shortly after the closing of polls, the GEC began presenting preliminary results data for each province which were not disaggregated by polling station. According to the GEC, some 95 per cent of partial results from the VCE were received by midnight of election day. While the preliminary results were broadly published in the media based on information from the GEC, the GEC itself did not officially publish preliminary results on its website, which carried risk of the results being disseminated in an incorrect or imprecise form and detracted from the transparency and accountability of the tabulation process.

Upon the receipt of hard-copy data from PECs and their verification against the data received from the VCE, the GEC approved the final results on 11 June and immediately presented them to the parliament which, later that day, adopted a law acknowledging the powers of the newly elected president, thus instating him. Once the decision was adopted, the GEC published the final results, disaggregated by polling station, on its website. These included only data on the votes cast, without further details on registered voters, voter turnout per PS, or additional polling data, such as number of received and spoilt ballots. According to the LPE, the GEC shall announce the election results and the elected president within 10 days after polling, allowing for a period for petitions against the GEC decision before the Constitutional Court. Although both the GEC and the parliament followed official deadlines as set in the legislation, the rapid adoption of the respective law may have had a negative impact on possibilities for challenging the results.

To ensure transparency and possibility for effective remedy, the General Election Commission should be required to publish full preliminary and final results, disaggregated by polling station, online in a comprehensive and timely manner and the law should provide time to challenge the final results as published by the Commission. The published results should comprise all relevant polling data,

including registered voters, votes cast per candidate and blank votes, as well as numbers of received and spoilt ballots, to allow an independent scrutiny of the results.

XV. COMPLAINTS AND APPEALS

The complaints and appeals system offers avenues for resolving election-related violations and offenses, yet many election disputes timelines are inconsistent with electoral deadlines. As noted in previous ODIHR reports and recommendations, the timelines for filing and adjudicating disputes are not aligned to the electoral calendar and could possibly preclude effective legal redress, at odds with OSCE commitments and international standards.⁵⁴ Notably, for appeals related to candidate registration, the legal timelines for completion of judicial redress by the Administrative Court of Appeals and the Supreme Court extend well beyond the election day.

According to the LPE, complaints against decisions of election commissions are handled by higher commissions in a hierarchical manner.⁵⁵ Decisions of the GEC can be appealed within seven days to the Administrative Court of Appeals, which must decide within 30 days with a maximum extension of 10 days. This decision can be further appealed within five days to the Supreme Court, which must render a decision within 21 days, with no possibility for extension. Regrettably, the deadlines although shorter than standard court procedures, could potentially extend well beyond the inauguration of the elected president.⁵⁶ Moreover, these provisions do not establish legal standing or procedures for filing and adjudicating complaints. The new LPE also introduced a provision that appears to contradict other deadlines, as it provides that any authorized body adjudicating election-related disputes must settle them within the election year.⁵⁷

Timelines for complaints and appeals should be shortened and judicial procedures streamlined in order to align them with the electoral calendar and to allow effective and timely redress of election disputes. Relevant provisions should also clearly specify who has legal standing and the relevant procedures for filing and adjudication.

At the end of the candidacy registration process, the Administrative Court of Appeals received two complaints from the prospective DP candidate Althankhuyag Norov, one challenging the GEC rejection of his candidacy and the other opposing the registration of Mr. Erdene as the DP candidate. The Court rejected both complaints and an appeal was submitted to the Supreme Court related to his non-registration. On 16 June, the Supreme Court upheld the decision.

⁵⁴ Article 5.10 of the OSCE 1990 Copenhagen document states “everyone will have an effective means of redress against administrative decisions, so as to guarantee respect for fundamental rights and ensure legal integrity”. Article 2.3 of the ICCPR states that “each State party...undertakes to ensure that any person whose rights and freedoms as herein recognized are violated shall have an effective remedy”.

⁵⁵ The GEC reported some 670 unofficial complaints received by phone during election day. These were mostly inquiries about polling stations location and activities of the election commissions and were, according to the GEC, promptly solved.

⁵⁶ According to Art. 32.2 of the Constitution, the president takes up office within 30 days after being elected. During its 11 June 2021 session – two days after election day – the parliament approved the election results and established 25 June as the inauguration day. With regard to the swiftness of this procedure and its impact on a possible appeal process, the Administrative Court of Appeals informed the ODIHR SEAM that they often render a decision within a few days.

⁵⁷ According to the LPE, polling day for presidential elections shall be set in the first half of June of the election year, therefore the relative disputes could be solved until December of the same year.

According to the LPE, petitions challenging the GEC decision on the election results must be submitted to the Constitutional Court. Regrettably, the Law does not specify who has legal standing to file, nor the criteria for evaluation of the complaints or the respective procedure. Moreover, it is unclear whether the decision of the GEC can still be challenged after the parliament has issued the resolution and subsequent law which certifies the election results and grants the mandate to the elected president.⁵⁸

A comprehensive system for challenging election results should be enacted, specifying the relevant timelines and procedures, standing for filing, and the criteria for the evaluation of the challenge.

Criminal offenses and relative sanctions are regulated by the Criminal Code and Law on Offenses.⁵⁹ According to the LPE, minor offenses are first handled by a police investigation, whereas serious crimes are transferred to the State Intelligence Agency. On the day prior to the election, the police reported that 41 complaints had been submitted, of which 19 had been resolved and 22 remained pending. After the elections, the prosecutor general reported a total of 80 offences mostly related to alleged vote buying.⁶⁰ Approximately 40 were committed on election-day. Seven criminal offences related to spreading false information and distribution of money for the purpose of influencing voters were still under investigation at the time of writing, respectively five by the police and two by the State Intelligence Agency.⁶¹

XVI. RECOMMENDATIONS

These recommendations, as contained throughout the text, are offered with a view to enhance the conduct of elections in Mongolia in line with OSCE commitments and other international obligations and standards for democratic elections.⁶² These recommendations should be read in conjunction with prior ODIHR recommendations that remain to be addressed. ODIHR stands ready to assist the authorities of Mongolia to further improve electoral processes and to address the recommendations contained in this and previous reports.

⁵⁸ According to the LPE, the GEC has ten days to present to the parliament its decision on election results. This time, the GEC adopted its decision on election results and the winning candidate the day after the election, and presented it on the same day to Parliament.

⁵⁹ The Law on Offences provides for 36 categories of offences including among others, vote buying (offering and receiving), illegal campaign, violations related to campaign finance; serving or selling alcohol on e-day. The criminal code provides for 5 categories of serious crimes such as interference with suffrage right, casting more than one vote, interference with election results, candidate defamation and pre-planned organization to influence election results.

⁶⁰ Eight cases related to spreading false information, public defamation of a candidate and illegal campaigning. Others related to selling and serving alcohol on election day, announcing false preliminary results, and misuse of other's people name or email addresses during election campaign.

⁶¹ [Communication of the Prosecutor General's office](#), last accessed on 15 June 2021.

⁶² According to paragraph 25 of the [1999 OSCE Istanbul Document](#), OSCE participating States committed themselves "to follow up promptly the ODIHR's election assessment and recommendations". The follow-up of prior recommendations is assessed by the ODIHR SEAM as follows: from the final report on the 2016 parliamentary elections, recommendations 13 and 27 are fully implemented; recommendations 10 and 21 are mostly implemented; and recommendations 1, 3, 5, 15, 20, 26 and 28 are partially implemented. From the final report on the 2017 presidential election, no recommendations are fully implemented; recommendations 1, 22 and 22 are mostly implemented; and recommendations 3, 12, 14, 19, 20, 27 and 28 are partially implemented. See also the [ODIHR Electoral Recommendations Database](#).

A. PRIORITY RECOMMENDATIONS

1. The parliament should continue revising the electoral legal framework, with broad and inclusive consultations with electoral stakeholders well in advance of the next election, and in line with the recommendations in this and previous ODIHR reports.
2. Undue restrictions on the right to stand, including on the basis of disability, residency or descent, should be revised in line with international standards.
3. The law should be revised to provide for the possibility of independent candidates and for nominations from non-parliamentary parties.
4. The law should be amended to provide a less restrictive framework for campaigning, including regarding the type of activities permitted, as well as the assets and resources that can be used. Campaigning between the first and second round should be allowed.
5. To enhance transparency and accountability, contestants' campaign finance reports and the State Audit Office's assessments should be posted online for public scrutiny. In addition, a requirement for the disclosure of contestants' income prior to election day, such as through the publication of interim financial reports, should be introduced to enhance voters' ability to make an informed choice.
6. Disproportionate sanctions for libel that may unduly restrict freedom of expression should be revised. Consideration should be given to repealing legal provisions on the dissemination of false information.
7. Timelines for complaints and appeals should be shortened and judicial procedures streamlined in order to align them with the electoral calendar and to allow effective and timely redress of election disputes. Relevant provisions should also clearly specify who has legal standing and the relevant procedures for filing and adjudication.

B. OTHER RECOMMENDATIONS

Legal Framework and Electoral System

8. Consideration could be given to reconsidering the provision in the Law on Presidential Elections for additional polling in order to address its potential to undermine the equality and secrecy of the vote, as well as its openness to manipulation.

Election Administration

9. In order to enhance transparency and access to information of public interest, election administration bodies of all levels should hold open meetings, allowing for sufficient public notice, and publish decisions, agendas and minutes thereof in a timely and consistent manner.
10. To increase confidence in election technologies, the possibility for an independent third-party verification of the vote counting system should be clearly defined in law. The election administration should document all modifications and tests performed on the vote-counting equipment and make all relevant information available to the public, including process documentation, requests for changes, and change logs.

Voter Registration

11. The legal framework should be harmonized with the objectives of the Convention on the Rights of Persons with Disabilities by removing all restrictions on voting rights on the basis of intellectual or psychosocial disability.
12. The blanket deprivation of voting rights of citizens serving a prison sentence should be revised in line with international obligations.
13. The procedure for temporary transfer of voter registration could be simplified to facilitate the exercise of voting rights of citizens away from their place of voting.
14. To further enhance confidence in the voter registration process, and while maintaining the integrity of personal data, political parties and citizen observers should be provided access to aggregated voter lists with sufficient time for independent scrutiny.

Candidate Registration

15. Public employees should not be required to resign from their posts until the start of the period for candidate nomination.
16. The nomination period of candidates should be extended and concluded earlier in the election calendar to allow sufficient time for the GEC to register candidates and any court appeals to be finalized.
17. The requirement for candidates' electoral platforms to be confirmed by the State Audit Office for their adherence to specific policy-based requirements should be repealed.

Campaign

18. A prohibition of the misuse of administrative resources and public employees for campaigning as well as a clear separation between the official responsibilities of public officials and their canvassing activities should be clearly provided in the law. Authorities should take proactive steps to prevent and address any misuse or related violations.

Campaign Finance

19. The State Audit Office should be provided sufficient resources to conduct effective monitoring of campaign financing, including field data collection of candidates' expenditures.
20. A fully functional and streamlined framework for effective, dissuasive and proportionate sanctions for campaign finance violations should be devised.

Media

21. Consideration should be given to strengthening the independence of the public broadcaster from possible political interference, in particular by revising its financing system.
22. Consideration should be given to transforming the Communications Regulatory Commission from a state administrative body with a board directly nominated by the government into an independent regulatory body, by revising the system for appointing its board members.
23. Consideration should be given to repealing provisions of the Law on Presidential Elections which infringe the editorial freedom of offline and online media, as well as those permitting the conflation of news and paid content produced by political parties and candidates.
24. Sanctions levied against media should be subject to judicial review and the suspension of media outlets should require a court order. Consideration should also be given to unifying the oversight of media and handling media-related complaints under a single independent, accountable, and transparent body with sufficient resources.

Citizen and International Observers

25. The framework for citizen observation could be improved. The requirement for citizen observers to register for each individual polling station could be revised and trainings provided to election officials should include sufficient information on observers' rights and related procedures.

Election Day

26. To ensure consistency and transparency in the counting process, clear procedures for rectifying discrepancies between electronic and manual counts should be established.
27. To ensure transparency and possibility for effective remedy, the General Election Commission should be required to publish full preliminary and final results, disaggregated by polling station, online in a comprehensive and timely manner and the law should provide time to challenge the final results as published by the Commission. The published results should comprise all relevant polling data, including registered voters, votes cast per candidate and blank votes, as well as numbers of received and spoilt ballots, to allow an independent scrutiny of the results.

Complaints and Appeals

28. A comprehensive system for challenging election results should be enacted, specifying the relevant timelines and procedures, standing for filing, and the criteria for the evaluation of the challenge.

ANNEX – ELECTION RESULTS⁶³

Number of Registered Voters:	2,049,379
Number of Ballots Cast:	1,215,063
Turnout:	59.35 per cent

Results

Enkhbat Dangaasuren:	246,968 (20.31 per cent)
Erdene Sodnomzundu:	72,832 (5.99 per cent)
Khurelsukh Ukhnaa:	823,326 (67.69 per cent)
Blank Ballots Cast:	71,937 (5.91 per cent)

⁶³ Source: General Election Commission.

ABOUT ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Summit Document). This is referred to as the OSCE human dimension.

ODIHR, based in Warsaw (Poland) was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 150 staff.

ODIHR is the lead agency in Europe in the field of **election observation**. Every year, it co-ordinates and organizes the deployment of thousands of observers to assess whether elections in the OSCE region are conducted in line with OSCE commitments, other international obligations and standards for democratic elections and with national legislation. Its unique methodology provides an in-depth insight into the electoral process in its entirety. Through assistance projects, ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include: rule of law, legislative support, democratic governance, migration and freedom of movement, and gender equality. ODIHR implements a number of targeted assistance programmes annually, seeking to develop democratic structures.

ODIHR also assists participating States' in fulfilling their obligations to promote and protect **human rights and fundamental freedoms** consistent with OSCE human dimension commitments. This is achieved by working with a variety of partners to foster collaboration, build capacity and provide expertise in thematic areas, including human rights in the fight against terrorism, enhancing the human rights protection of trafficked people, human rights education and training, human rights monitoring and reporting, and women's human rights and security.

Within the field of **tolerance and non-discrimination**, ODIHR provides support to the participating States in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihr).