

INTERIM REPORT No. 2
4–14 June 2013

19 June 2013

I. EXECUTIVE SUMMARY

- The campaign has thus far been active but low-key. The visibility of candidates' campaigns varies significantly in different parts of the country and there is a lack of animated debate between the candidates or their representatives.
- Opposition mistrust in the electronic vote counting and proposals to conduct additional manual vote counts have led to a degree of polarization. Candidate Badmaanyambuugiin Bat-Erdene of the Mongolian People's Party (MPP) has been formally warned that he violated the Presidential Election Law (PEL) by calling for additional manual counts. Incumbent President Ts. Elbegdorj in his campaign repeatedly made pledges of a financial nature, which is prohibited by the PEL.
- The General Election Commission (GEC) continues preparations for the election but has still not adopted a comprehensive set of regulations for the work of lower-level commissions. Ballots have been printed and training of Precinct Election Commissions (PECs) is underway in some areas. The GEC plans to conduct a nationwide simulation of the electronic vote-counting equipment (VCE) before election day.
- Voter lists have been delivered to PECs but were not displayed at many of the PEC premises visited by OSCE/ODIHR Election Observation Mission (EOM) long-term observers (LTOs), effectively reducing the period during which voters can check the voter lists.
- The Agency for Fair Competition and Consumer Protection (AFCCP) received and decided several media-related complaints, in one case imposing fines on journalists for deliberately misspelling a word in a campaign message by Mr. Bat-Erdene. The temporary Media Council advising the GEC has only met once and has not received any complaints thus far.
- The OSCE/ODIHR EOM was informed that to comply with legal provisions, media cover the campaign by giving the same amount of news coverage to all candidates and by broadcasting equal amounts of political advertising. Initial OSCE/ODIHR EOM media monitoring results support this information for the public Mongolian National Broadcaster. No televised debate among the candidates has taken place yet.
- The GEC has to date not provided the OSCE/ODIHR EOM with access to all the complaints it had received. However, the GEC confirmed to the EOM that it received at least 39 complaints concerning membership of Territorial Election Commissions (TECs); the GEC replaced members of at least 9 of the 22 TECs as a result. The GEC resolutions on complaints, obtained by the EOM from the GEC or other interlocutors, contained no reasoning or evidence.
- Only one non-governmental organization (NGO), Midas, appears to have secured the funding to observe this election; it will focus on the performance of the VCE. Other NGOs will not observe

the pre-election phase, partly due to a restrictive GEC decision for accreditation to monitor that period.

II. CAMPAIGN ENVIRONMENT

The campaign has thus far been active but overall low-key. It is unfolding in a charged atmosphere, in particular due to concerns raised with regard to the electronic vote count. Whereas incumbent President Ts. Elbegdorj and representatives of his Democratic Party (DP) have repeatedly stressed the importance of the electronic vote-counting equipment (VCE) as being “consistent with the interests of justice”,¹ candidates Badmaanyambuugiin Bat-Erdene (Mongolian People’s Party, MPP) and Natsag Udval (Mongolian People’s Revolutionary Party, MPRP) have alleged a lack of voter information by the General Election Commission (GEC) and highlighted the lack of GEC regulations for cases where the results of the electronic and manual vote counts do not match.²

On 5 June, Mr. Bat-Erdene appealed to the other two candidates to agree to manual vote counts in the most populated areas,³ alleging voters’ distrust in and lack of transparency of the electronic vote counting procedure. In response, the GEC on 6 June issued a letter to the MPP, demanding that the MPP candidate stops calling for a breach of the Presidential Election Law (PEL).⁴ The AFCCP, acting on a complaint from the DP, considered Mr. Bat-Erdene’s appeal a violation of Article 33.7.7 of the PEL and issued a warning to him. The MPP has told the OSCE/ODIHR EOM that it will continue lobbying for manual counts.

The campaign visibility of the candidates varies significantly, both between and within provinces, echoing the regional level of support for the respective nominating party during the 2012 parliamentary and local elections and in part also reflecting candidates’ financial resources. All candidates campaign at provincial capital and district levels, while their representatives and campaigners are active at the village level. Additionally, the OSCE/ODIHR EOM observed the prime minister, the speaker of parliament, chairpersons of governmental departments, advisers to the president and prime minister, and the head of the presidential office as speakers during rallies for the incumbent. Government ministers, deputy speakers of parliament, members of parliament, members of citizen representatives’ assemblies, governors, and public figures, including wrestling and sumo champions, doctors, actors and poets have been observed at campaign events of all candidates.⁵ Despite the occasional proximity of candidates’ activities in the same location, rallies have been free of incidents. OSCE/ODIHR EOM LTOs have observed over 35 campaign events

¹ For instance on 29 April, the president highlighted the significance of the VCE in a keynote address at the 7th Ministerial Conference of the Community of Democracies in Ulaanbaatar, see <http://cdmongolia.mn/statements/>.

² The MPP was one of the parliamentary parties that voted for the introduction of electronic vote counting. The party points to inconsistencies between electronic and manual vote counting results in the 2012 parliamentary and local elections.

³ Ulaanbaatar city, Darkhan-Uul, Orkhon, and Hövsgöl provinces.

⁴ B. Bat-Erdene’s appeal was published on 6 June in the newspaper *Zuuni Medee*. On the same day, the DP filed a complaint to the Agency for Fair Competition and Consumer Protection (AFFCP) noting that the appeal was in violation of the PEL. The GEC statement was published on 7 June on the GEC website (<http://gec.gov.mn/details/772>). It describes the candidate’s appeal as an illegal action which violates Articles 55.13 (random selection of PECs for manual vote count), 33.7.7 (a candidate is prohibited from “enticing violation of the election legislation”) and can be sanctioned under 33.19 (administrative fine for violations of Article 33) of the PEL. Furthermore, the DP supported the GEC’s position in an article published in the newspaper *Udriin Sonin* on 10 June, noting that candidates should know that such appeals are in violation of the PEL.

⁵ The PEL prohibits civil servants other than political appointees from engaging in election campaigning (Article 33.7.11). On 10 June, the MPP filed a complaint with the Capital City Police on the involvement of the chief artistic director of the State Opera and Ballet Theatre (a civil servant position), who was campaigning on behalf of the incumbent.

throughout the country to date.⁶ Party campaigners, mainly of the DP and the MPP, are conducting door-to-door canvassing. There are indoor and outdoor rallies, small-scale meetings with voters in markets and central streets, and campaign *gers* and party offices for the distribution of leaflets and party/candidate newspapers. Banners, billboards and other printed campaign materials are moderately visible. In some districts, the campaign is scarcely visible until the day before a candidate arrives for an event. Candidates also use Facebook and Twitter and have started sending campaign text messages to mobile phones.

The election campaign is characterized by a lack of animated debate between candidates or candidate representatives. All candidates have pledged to fight corruption, unemployment, the negative social, environmental, economic and governance effects of mining, and alcoholism, as well as to reform the judiciary, reduce partisan influence in the public administration, improve living standards, promote investment in schools and hospitals, and to continue a foreign policy of good relations with Russia and China. According to the PEL, pledges of a financial nature and other pledges that do not fall under the executive powers of the president are prohibited. In several cases, OSCE/ODIHR EOM LTOs observed Ts. Elbegdorj making pledges of a financial nature,⁷ such as promising to implement programmes in Dornod province through the state and local government budget in 2013, to grant allowances to young mothers for the duration of two years, to organize kindergartens at homes and in workplaces, and to pay MNT 1 million per year to mothers who are caretakers of at least five children. The MPP filed complaints in a few such cases, for example on 25 May with the Capital City Police (with a copy to the GEC) regarding pledges made by Ts. Elbegdorj during his meeting with the electorate in Dornod province on 22 May.

III. ELECTION ADMINISTRATION

The GEC continues to prepare for the election, in accordance with legal deadlines. However, it has still not adopted a comprehensive set of regulations for the work of lower-level election commissions, nor has it provided detailed clarifications and instructions about relevant sections of the election law to lower-level commissions. In view of unclear and at times contradictory provisions in the PEL, the effect on the uniform implementation of election procedures on election day remains to be seen.⁸ District Election Commissions (DECs) have started the training of PEC members.

Members of election commissions at all levels are drawn from among civil servants. A number of OSCE/ODIHR EOM LTOs reported a perception among local interlocutors that civil servants allegedly affiliated with the DP are being appointed at all levels of the election administration.⁹

While some interlocutors continue to express their lack of trust in the VCE, the GEC and the producers of the equipment are confident that voters and the majority of election commission members support the electronic vote count. The GEC plans to conduct a nationwide election simulation on a date between 21 and 23 June to test the functioning of the VCE and the system of data transfer from the PECs to the GEC.

⁶ OSCE/ODIHR EOM LTOs observed campaign events of all three candidates in Ulaanbaatar, Bayan-Ölgii, Darkhan-Uul, Dornod, Govi-Altai, Hövsgöl, Hentii, Selenge, Töv, and Zavkhan provinces.

⁷ On 22 May in Choybalsan (Dornod province), on 4 June in Altai (Govi-Altai province), on 6 June in Ölgii (Bayan-Ölgii province), and on 9 June in the Chingeltei district of Ulaanbaatar.

⁸ For example, Article 48.1 of the PEL requires PEC members to make final preparations for voting at 07:00 hrs. on election day, the same time at which polling stations must open for voting under the law. OSCE/ODIHR EOM LTOs reported that some TECs asked PEC members to be at their respective polling stations at 6:00 or 6:30 hrs. in order to be able to finish preparations by 07:00 hrs.

⁹ See Section V., Complaints and Appeals, for details on related complaints.

On 13 June, the GEC endorsed the initiative of the Information Technology, Post and Telecommunications Authority, a governmental regulatory agency, and the Mongolian Youth Federation to award each voter who casts a ballot in the election with mobile phone credit in the amount of MNT 1,000 (some EUR 0.50).¹⁰

The GEC printed ballots for out-of-country voting and has sent them to the 39 PECs established abroad. Ballot papers for polling stations in Mongolia were printed between 8 and 10 June.¹¹ The printing was observed by two party observers on behalf of each candidate. Ballots were distributed to all Territorial Election Commissions (TECs) by 12 June.

Preliminary voter lists were printed and delivered to PECs by the legal deadline of 6 June, as reported by OSCE/ODIHR EOM LTOs. These lists should be posted at PEC premises or at local administration buildings for public scrutiny after they are received. By the end of the reporting period, voter lists were not displayed at many PECs visited by OSCE/ODIHR EOM LTOs, therefore effectively reducing the ten-day period during which voters can check their entries in the voter lists.

PECs have started the delivery of voter invitation cards and the door-to-door verification of voter lists. Overall, political party interlocutors expressed confidence in the voter registration system and the quality of voter lists. In order to encourage voters to register or check their records, the State Registration Agency has prepared a voter education spot, which is being aired on television and radio since 6 June. Additionally, flyers with similar information are being distributed through newspapers.

IV. MEDIA

Mongolia does not have a permanent independent media council. The 2006 Law on the Central Election Body and a GEC Resolution of 22 May 2013 establishes a temporary Media Council to monitor “equality of campaigning of candidates via media” and to consider complaints.¹² The OSCE/ODIHR EOM was informed that after an initial meeting on 23 May, the Media Council has not met again and has thus far not received any complaints.

During a press conference on 3 June, the AFCCP, tasked by a joint GEC and Communications Regulatory Commission (CRC) Resolution of 5 April to monitor “the Mongolian presidential election campaign by TV and radio”, presented three complaints filed by the MPP.¹³ While a complaint against President Ts. Elbegdorj for early campaigning was rejected,¹⁴ two journalists working for commercial NBS TV were fined one month’s salary each, for deliberately misspelling a letter in candidate B. Bat-Erdene’s campaign slogan during a news programme.¹⁵ The TV station was ordered to broadcast an apology three times. A third complaint on a 90-minute broadcast of a

¹⁰ The associated costs will be covered by the mobile phone service operators. See <http://gec.gov.mn/details/793>.

¹¹ A total of 6,494 ballots were printed for out-of-country voting, and 1,893,207 for voting in Mongolia.

¹² The Media Council comprises one representative each of the DP, MPP and MPRP and one representative each from the Union of Mongolian Journalists and the Globe International Media NGO. It has an advisory role in relation to the GEC.

¹³ The PEL does not explicitly task the AFCCP to be the monitoring body for broadcast media; it only mentions that the CRC can withdraw licenses of media outlets after an opinion given by the AFCCP. Despite a legal obligation to inform the public (Article 4.7 of the GEC/CRC resolution of 5 April), complaints or monitoring results are not available on the AFCCP website.

¹⁴ See OSCE/ODIHR EOM to Mongolia, Interim Report No. 1 (10 May–3 June 2013), available at <http://www.osce.org/odihr/elections/102411>.

¹⁵ The campaign slogan “We cherish unity (*eviig*) and support the right [thing]” was misspelled as “We cherish materials (*ediig*) and support the right [thing]”. The AFCCP decided that this was done deliberately since the slogan was misspelled in oral and written form.

meeting of Ts. Elbegdorj with the local community of Dalanzadgad district has not yet been decided.¹⁶ The AFCCP informed the OSCE/ODIHR EOM that it had received more complaints by the DP and the MPP, including one from the DP alleging slander in an MPP political advertising broadcast on 29–30 May; the AFCCP issued a warning to the MPP in that case.¹⁷

Due to a lack of facilities and methodology, the AFCCP does not conduct quantitative and qualitative media monitoring in order to detect possible violations. The recording of TV and radio programmes is outsourced to a commercial company, Maxima Consulting. Consequently, the AFCCP is only able to act in response to complaints.

OSCE/ODIHR EOM interlocutors working for TV stations monitored by the EOM reported that the legal requirements resulted in the election campaign being covered by giving the same amount of campaign coverage to candidates in news and by broadcasting an equal amount of political advertising. Initial EOM media monitoring results support this assertion for the public Mongolian National Broadcaster. Although all monitored TV stations have regular discussion programmes, no debate among candidates or representatives of political parties has taken place yet.¹⁸ Programmes that could provide an opportunity for journalists, current affairs experts and the public to put questions to candidates and for them to debate with each other are lacking.

V. COMPLAINTS AND APPEALS

Thus far, the OSCE/ODIHR EOM has been informed about election-related complaints filed to three different bodies: the GEC, the police and the AFCCP. To date, the EOM has not been given access to all complaints filed with the GEC. Of 380 official letters registered with the GEC, including an undisclosed number of complaints, 39 were confirmed by the GEC to concern the composition of TECs. As a result of these complaints, the GEC replaced a minimum of 28 members of at least 9 TECs,¹⁹ but did not specify which criteria it used for appointment or removal of TEC members. While a number of complaints submitted to the GEC regarding the composition of the TECs and DEC members were supported by evidence, the GEC resolutions on complaints obtained by the EOM from the GEC or other interlocutors contained no reasoning or evidence.²⁰ Two complaints about party

¹⁶ The meeting was broadcast by Altan Gobi TV, The Sun of Gobi TV and Best TV on 28 May and rebroadcast the morning after. MPP considers this a violation of Article 39.3 and 39.8 of the PEL. Article 39.3 requires that broadcasting of paid campaign coverage should be based on a contract between candidate and TV station, and total broadcasting time should not exceed one hour per day. Article 39.8 requires the GEC and the CRC to develop a broadcasting schedule for political advertising.

¹⁷ Regrettably, the AFCCP provided the OSCE/ODIHR EOM with written documentation on only one complaint, filed by the DP against candidate Bat-Erdene (see Section II, Campaign Environment).

¹⁸ Representatives of the public Mongolian National Broadcaster informed the OSCE/ODIHR EOM that a debate with all candidates is planned for the end of the election campaign.

¹⁹ The GEC provided the OSCE/ODIHR EOM with copies of four resolutions, all regarding the composition of TECs. Three of these resolutions were responses to complaints that the EOM had received from other sources and about which the EOM had specifically asked the GEC. The GEC has thus far not responded to the EOM's requests for full access to all complaints.

²⁰ The MPP filed three complaints regarding the membership of eight TECs. Additionally, the MPP branch in Darkhan-Uul province filed four complaints with the GEC, alleging that ineligible civil servants were appointed as election commissioners on the basis of proposals submitted by the DP faction in the provincial assembly; these complaints have yet to be answered. A request by the Dundgovi provincial assembly on changes required to the TEC composition due to ineligibility of some TEC members was not answered by the GEC. A complaint against the appointment of the chairperson of Sükhbaatar TEC (allegedly found by courts on two occasions not to be fit to serve as an election commissioner for illegal conduct during the 2012 elections), was answered by a letter stating that he is an outstanding civil servant with many years of experience, including in election management.

flags being displayed outside areas where this is permitted under the law were dealt with promptly by the respective DECAs.²¹

As provided for by the PEL, the GEC referred to the police for investigation²² a complaint from the DP alleging prohibited campaign pledges and use of minors and religious symbols in the campaign by the MPP candidate. The MPP filed complaints alleging prohibited pledges, dissemination of false information, and the use of civil servants in the election campaign of the incumbent.²³ The MPP also provided the OSCE/ODIHR EOM with a copy of a complaint on early campaigning by the incumbent which was resubmitted to the AFCCP.²⁴ In addition, the MPP made three requests for police investigation at the provincial level in Ömnögovi.²⁵

VI. CITIZEN AND INTERNATIONAL OBSERVERS

Some 6,000 non-governmental organizations (NGOs) are registered in Mongolia. While the 2012 parliamentary elections were observed by a network of six NGOs under the name “For Just Elections”, only the NGO Midas appears to have funding for observation of this election. It is conducting testing of VCEs, in co-operation with the GEC. Political parties were asked to contribute to preparing the scenarios for the test. Other NGOs will not observe the pre-election day period, due to lack of funds and a restrictive GEC decision regarding accreditation to monitor the pre-election day period.²⁶

VII. OSCE/ODIHR EOM ACTIVITIES

During the reporting period, the OSCE/ODIHR EOM continued its regular activities, meeting state officials, party and candidate representatives, the election administration, the Constitutional Court, media and civil society representatives, and diplomatic missions. The Head of Mission has still not met any of the candidates despite repeated requests. OSCE/ODIHR EOM LTOs deployed throughout the country continue to observe electoral preparations and the campaign in the regions and are preparing for the deployment of short-term observers.

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

²¹ Chingeltei (Ulaanbaatar) and Khongor (Darkhan-Uul province) DECAs.

²² The Ministry of Justice and Home Affairs informed the OSCE/ODIHR EOM that police were briefed on their responsibilities under the PEL and instructed to uphold the law and conduct investigations in a non-partisan manner. These instructions were not shared with the EOM as they are considered a secret document. Reports from OSCE/ODIHR EOM LTOs indicate that police are aware of their responsibilities.

²³ See Section II, Campaign Environment, for more details.

²⁴ See OSCE/ODIHR EOM Interim Report No. 1. The MPP resubmitted the complaint since it considers the AFCCP’s investigation results inadequate. It also requested a reinvestigation of the case by the police since the Capital City Police responded to the initial complaint quoting a wrong article of the PEL.

²⁵ All three requests for investigation alleged violations of campaign rules. Police responded to one request, stating that no violation was found but also mentioning that the petitioner can appeal to a court.

²⁶ According to GEC Decision No. 23, Article 2.2, “an NGO shall submit a written request to monitor elections to the GEC 15 days after the election day has been announced” (i.e. no later than 50 days before election day).