**MONGOLIA**

**Questionnaire of the Special Rapporteur on the independence of judges and lawyers**

1. Please indicate whether there is a national body or mechanism in charge of selecting, appointing, promoting, transferring, suspending or removing judges in your country. What is the exact denomination of this body or mechanism? What are the legal basis for its establishment (e.g. constitutional provisions; ordinary law or other)?

Yes, the General Council of Judiciary (GCJ). The name of the GCJ in Mongolian is *Шүүхийн ерөнхий зөвлөл*. GCJ is charged with the power of selecting, appointing, promoting, transferring, suspending or removing judges. GCJ submits its proposal to the President. GCJ is constitutional body, which is charged with the following authority: GCJ shall work for the purpose of ensuring the impartiality of judges and independence of judiciary.

2. Please provide information on the composition of the body or mechanism (number and qualifications of members), the procedure for the appointment of its members and the duration of their term of office. Please also provide information on the human and financial resources of this body or mechanism (e.g. number of employees and their qualifications; annual budget).

GCJ composed of a chairperson and four other members, including one person nominated each by the conference of judges from the courts of first instance, appellate courts and Supreme Court, one person by the Mongolian Bar Association, and one person by the Ministry of Justice, subject to the approval by the President of Mongolia. The chairperson is nominated from among the members of GCJ for consideration at its session, and a person, who obtained a majority of votes from its members. Then the nomination to be proposed to and appointed by the President.

The chairperson and members of the GCJ serves on a fulltime basis and their term of office is three years with possibility of one time reappointment. They were given and recognized as status of high level state official by the law. GCJ has 50 civil servants, plus contract employees.

3. Please provide detailed information on the legislation and practice existing in your country in relation to:

(a) The selection and appointment of candidates for judicial offices and the criteria used for their selection and appointment (e.g. qualifications, integrity, ability and efficiency);

Though partially dependent from GCJ, the Judicial Qualification Committee is responsible for deciding the professional quality of candidates for judgeship and has done fair job since 2013. However, GCJ does not often base its decision to select judges among candidates nominated by the Judicial Qualification Committee. GCJ is libeled dependent from the President’s office which is political office, therefore GCJ is not trusted as independent body or organization supposed to be protect judicial independence as the Constitution declares. This is because the appointment of all members and chairperson by at-will of the President.

(b) Condition of service and security of tenure of judges;

Condition of service and security of tenure of judges are often dependent from GCJ, which once proposed a decision (later approved by the President) to illegally remove and transfer number of judges without consent and proper decision by ethics or qualification committee.

(c) Promotion of judges;

Promotion of judges is competitive based which means qualified candidates can nominate itself to the open position. But selection among candidates is in hands of the GCJ, which often accused of not following or without reasonable explanation Judicial Qualification Committee’s recommendation.

(d) Transfer of judges;

By the law, transfer can happen only with the consent of judge, but some of the GCJ’s decision was not in-line with this legal requirement.

(e) Disciplinary proceedings against judges.

What is the role played by the national organ or mechanism with regard to the issues referred to above?

The Judicial Ethics Committee (JEC) is not directly affiliated with the GCJ, members and chairperson (total 9) is nominated by similar procedure as GCJ and appointed by the President. Active lawyers and prosecutors are barred to be a member of JEC as opposed to former practice.

4. If the national organ or mechanism does not have a role to play in relation to any of these issues, please provide detailed information on legislation and procedure for:

(a) Judicial selection and appointment;

(b) Transfer and promotion of judges;

(c) Disciplinary proceedings against judges