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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
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(VENICE COMMISSION)

MONGOLIA

**DRAFT LAW ON THE CONSTITUTIONAL COURT (TSETS) OF
MONGOLIA AND THE EXPLANATORY NOTE**

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Ulaanbaatar

**I. THE LAW OF MONGOLIA ON THE CONSTITUTIONAL COURT (TSETS)
OF MONGOLIA**

/Revised edition/

**CHAPTER ONE
GENERAL PROVISIONS****Article 1. Purpose of the Law**

1.1. The purpose of this law is to establish the fundamental principles, jurisdiction, organizational structure, and guarantees ensuring the impartiality and independence of the Constitutional Court of Mongolia (hereinafter referred to as the "Court"), as well as to outline the legal status of its Justices.

Article 2. Legislation

2.1. The legislation governing the Court shall consist of the Constitution¹ of Mongolia (hereinafter referred to as the "Constitution"), the Law on Constitutional Court Procedure, this law, and other legislative acts enacted in conformity with these laws.

Article 3. Fundamental Principles of the Court

3.1. The Court shall be governed by the following fundamental principles: adherence to the Constitution, neutrality, reliance on research, independence, and transparency.

Article 4. The Constitutional Court and its Jurisdiction

4.1. In accordance with Article 64.1 of the Constitution, the Court shall exercise supreme supervision over the enforcement of the Constitution, render conclusions on the violation of its provisions, and resolve constitutional disputes.

4.2. The Court shall review and render conclusions on disputes specified in Article 66.2 of the Constitution, on the basis of information provided by citizens or upon request of authorized organization or official.

4.3. The Court shall reconsider and render a final decision if the State Great Hural (the Parliament) rejects the Court's conclusion on disputes specified in Article 66.2, Clause 1 and Clause 2 of the Constitution.

4.4. In accordance with Article 66.1 of the Constitution, the Court shall adjudicate the dispute on fundamental rights based on citizens' petitions.

**CHAPTER TWO
ORGANIZATIONAL STRUCTURE OF THE COURT****Article 5. Criteria and Requirements for a Justice**

5.1. A citizen who is 40 years of age, possesses a higher legal education, and holds advanced legal and political qualifications shall be eligible for appointment as a Justice.

¹ The Constitution of Mongolia was published in Issue 01, 1992 of the "State Bulletin".

5.2. The following citizen shall be prohibited from being appointed as a Justice:

- 5.2.1. who have reached the age limit for civil service;
- 5.2.2. who have been convicted of a crime, as determined by a legally valid court decision.

Article 6. Appointment of a Justice

6.1. The Court shall consist of nine Justices, who are appointed by the State Great Hural for a six-year term. Three Justices shall be nominated by the State Great Hural, three by the President, and three by the Supreme Court (hereinafter referred to as the "authorized organization or official").

6.2. At least 45 days prior to the expiration of a Justice's term of office, or within 45 days following the early termination of a Justice's term, the authorized organization or official shall nominate a candidate who best meets the criteria and requirements for a Justice and submit the nomination to the State Great Hural, along with an introduction and the relevant documents specified in Article 6.4 of this law.

6.3. The nomination proposal shall be made in accordance with the Law on the Rules of Procedure of the State Great Hural, the Law on the President of Mongolia, and the Law on the Supreme Court of Mongolia, as applicable to the State Great Hural, the President, and the Supreme Court, respectively.

6.4. The authorized organization or official shall publish on its official website the introduction confirming that the candidate meets the criteria and requirements for a Justice, at least five working days prior to submitting the nomination proposal to the State Great Hural.

6.5. The State Great Hural shall discuss and decide on the appointment of a candidate for Justice within 14 days following the submission of the nomination proposal specified in Article 6.2 of this law. In case of submission during the recess of the session, the decision shall be made within 14 days following the commencement of the next session.

6.6. If the State Great Hural declines the appointment of a candidate proposed in accordance with Article 6.2 of this law, the nominating authorized organization or official shall submit a proposal to nominate another candidate within 30 days, in accordance with this Article.

6.7. The authorized organization or official shall, in conformity with this law, adopt and publish on its official website a regulation governing matters such as identifying and selecting a candidate who meets the criteria and requirements for a Justice, ensuring transparency, and engaging the public and professional organizations.

Article 7. Mandate of a Justice

7.1. The mandate of a Justice shall commence on the day of appointment and shall terminate upon the expiration of the term and upon the appointment of the next Justice by the State Great Hural.

7.2. The mandate of a Justice shall be terminated on the following grounds:

- 7.2.1. death;
- 7.2.2. acceptance of the resignation request by the State Great Hural;
- 7.2.3. renunciation of Mongolian citizenship;
- 7.2.4. in accordance with Article 20 of this law, a decision by the State Great Hural to recall a Justice;

7.2.5. conviction of a crime, as determined by a legally valid court decision.

7.3. Reaching the age limit for civil service during tenure shall not be grounds for termination of a Justice's term of office.

Article 8. Oath of a Justice

8.1. Within 5 days following the day of appointment, a Justice shall take the following oath, swearing by the Constitution, in the Session Hall of the Court: "I, a Justice of the Constitutional Court, undertake to conscientiously defend the Constitution of Mongolia, to remain neutral, impartial, and fair in adjudicating disputes solely in accordance with the Constitution, and to strictly fulfil all the duties of a Justice of the Constitutional Court."

8.2. A regulation on the taking of the oath by a Justice shall be approved by the Deliberation of all Justices of the Court.

Article 9. Deliberation of all Justices of the Court

9.1. The following issues shall be discussed and resolved at the Deliberation of all Justices of the Court (hereinafter referred to as "Deliberation"):

- 9.1.1. elect, dismiss, and resign the Chairperson;
- 9.1.2. approve the Rules of Procedure of the Constitutional Court (hereinafter referred to as the "Rules of Procedure");
- 9.1.3. decide whether to indict or suspend the mandate of a Justice;
- 9.1.4. determine whether there are grounds for recalling a Justice and submit its decision to the State Great Hural;
- 9.1.5. approve the organizational structure, staffing, and the Rules of the Secretariat of the Court (hereinafter referred to as the "Secretariat");
- 9.1.6. address issues proposed by at least one-third of the Justices.

9.2. The following issues shall be introduced at the Deliberation, and if necessary, proposals shall be made:

- 9.2.1. review the budget framework announcements and budget proposals of the Court before they are submitted, submit proposals to the Chairperson, and review budget performance;
- 9.2.2. preliminary review of the appointment and dismissal of the Secretary General of the Secretariat, and submit proposals to the Chairperson;
- 9.2.3. hear reports and information on the activities of the Secretariat;
- 9.2.4. propose improvements to legislation related to the legal status of the Court and adjudication procedures;
- 9.2.5. address other issues related to the operational activities of the Court and issues specified in the Rules of Procedure.

9.3. All Justices must attend the Deliberation, except those who have valid reasons for absence, and must vote. Deliberation shall be considered valid if at least seven Justices are present.

9.4. The Deliberation is chaired by the Chairperson. In the absence of the Chairperson, or if issues specified in Article 19 and Article 20 of this law are related to the Chairperson, the Deliberation shall be chaired by the Justice who has served longest as a Justice.

9.5. The issue shall be resolved by a majority vote of the Justices present at the Deliberation, unless otherwise specified by law.

9.6. A resolution shall be issued on matters discussed at the Deliberation.

9.7. The minutes of the Deliberation shall be recorded and preserved in accordance with the Law on Archives and Record Management².

9.8. The Deliberation shall be categorized as regular and extraordinary. Regular Deliberation shall be convened at least once per quarter, while extraordinary Deliberation shall be convened within the time frame established based on the causes specified in this law, or upon the proposal of at least one-third of the Justices, or by the proposal of the Chairperson.

9.9. A Justice shall review the agenda in advance, at least 3 working days prior to the Deliberation, and shall be ensured equal opportunity to participate in it, make proposals, vote, and review its minutes recordings.

9.10. The regulations for the Deliberation shall be governed by the Rules of Procedure.

Article 10. Chairperson of the Court, the competence

10.1. The Chairperson shall be elected for a period of three years and may be re-elected for one additional term.

10.2. Upon the expiration of the Chairperson's term of office, the next Chairperson shall be elected within 14 days.

10.3. A Justice who is nominated from among the Justices and receives the majority votes from all Justices in a secret ballot shall be elected as a Chairperson. If three or more Justices are nominated for Chairperson, and neither of them receives the majority votes in the first round, a second vote shall be held between the two Justices who received the most votes. The Justice who receives the majority votes in the second round shall be elected as a Chairperson.

10.4. In addition to the competences of a Justice, the Chairperson shall exercise the following:

- 10.4.1. represent the Court both domestically and internationally;
- 10.4.2. convene and chair the Deliberation;
- 10.4.3. protect and ensure the independence of the Court and the impartiality of its Justices in relations with other state organizations;
- 10.4.4. exercise the competence of the general governor of the Court's budget;
- 10.4.5. exercise other competences specified by law.

10.5. The Chairperson shall issue orders within the scope of competence.

10.6. The Chairperson shall hold the seal of the Court.

10.7. In the absence of the Chairperson, a Justice who has served the longest in the Court shall substitute in order to ensure the operational stability of the Court's activities. If necessary, the Chairperson may issue a decision to specify the powers of the substitute.

Note: The term "a Justice who has served the longest in the Court," as specified in this Article, shall be calculated from the date of appointment as a Justice. In cases where Justices are appointed on the same day, it shall refer to the eldest Justice among them.

The term "the majority of all Justices," as specified in this Article, shall mean at least five Justices.

² The Law on Archives and Record Management was published in Issue 29, 2020 of the "State Bulletin".

Article 11. Secretariat of the Court

11.1. The Court shall have a professionally qualified Secretariat tasked with ensuring the stable, continuous, and secure operation of the Court. The Secretariat shall also be responsible for ensuring working conditions and providing financial, administrative, technological, and organizational support and assistance.

11.2. In accordance with the Law on Constitutional Court Procedure, the Court shall have a General Registrar responsible for examining the eligibility of petitions, information, and requests, as well as a Registrar who shall perform assisting functions.

11.3. The General Registrar shall hold a license to practice law and have at least five years of professional experience. The Registrar shall possess a higher legal education.

11.4. The Court shall have a Research Center, Library, Special Archive, and other organizational units to provide support and assistance for the Court in adjudication procedures.

Article 12. Assistant and Researcher to a Justice

12.1. Each Justice shall have an assistant.

12.2. Each Justice shall have a researcher responsible for carrying out and conducting research related to the Court's adjudication procedures.

12.3. An appointment and dismissal of an assistant and a researcher shall be based on the proposal of the respective Justice.

CHAPTER THREE INDEPENDENCE OF THE COURT AND IMPARTIALITY OF ITS JUSTICES

Article 13. Impartiality of a Justice

13.1. A Justice shall be impartial and equal in exercising their powers.

13.2. The Chairperson of the Court and Justices shall be prohibited from interfering with the impartiality of other Justices.

13.3. The President, the Chairman of the State Great Hural, the Prime Minister, Justices of the State Great Hural and the Government, the Chief Justice and judges of the Supreme Court, the Prosecutor General, state and local self-governing bodies, any organization, official, or citizen are prohibited from interfering, directly or indirectly influencing, or attempting to influence a Justice in the exercise of their powers.

13.4. A Justice shall be provided with the necessary workplace, transportation, communication, information and specialized technical equipment, furniture, and security to carry out their duties impartially.

13.5. The life, body, residence, correspondence, and the workplace, transportation, technical equipment, furniture, and other facilities specified in Article 13.4 of this law of a Justice shall be inviolable.

13.6. Except as provided in this law, the suspension, termination, or recall of a Justice from their powers is prohibited.

13.7. Except in cases where a Justice is caught in the act of committing a crime or there is evidence of their criminal act at the scene, no one shall be allowed to arrest, detain, place under preventive detention, bring criminal charges, or, as defined in the Law on Infringement, impose

judicial responsibility, conduct searches or inspections of their residence, workplace, communication tools, or body, or seize their correspondence, documents, or property, without the approval of the Constitutional Court.

13.8. If there is a threat to the life or safety of a Justice or their family, the police shall immediately take measures to prevent such danger.

13.9. A Justice shall be exempted from any official conscription during their term of office.

13.10. If a person who has served as a Justice has not been found guilty of committing a crime by a legally valid court decision, any opinions expressed, or decisions made while handling disputes during the tenure shall not be subject to accountability or responsibility after their term has ended.

Article 14. Influence Statement

14.1. A Justice shall conduct an influence statement to document and verify any actions or inactions by other parties attempting to exert influence during the adjudication process.

14.2. Upon the initiation of a dispute, the purpose of the influence statement and the consequences of any legal violations shall be explained to the parties involved in the dispute, and this explanation shall be documented.

14.3. If a Justice conducts an influence statement, it shall be enclosed with the case materials and a copy shall be submitted to the Chairperson.

14.4. The Chairperson shall transfer the records of actions or inactions documented in the influence statement to the relevant organization or official for investigation.

14.5. Upon receipt of the documents transferred under Article 14.4 of this law, the relevant organization or official shall resolve the matter and notify the Justice of the Court who kept the statement and the Chairperson within 30 days.

14.6. The Secretariat shall inform the public of the decisions received under Article 14.5 of this law, as appropriate.

Article 15. Economic and Social Guarantees for a Justice

15.1. The salary of a Justice shall be sufficient and guaranteed to ensure impartial performance of duties and to live independently.

15.2. The salary of a Justice shall consist of official salary, an additional allowance reflecting the special conditions of their position, and allowances determined by the length of service in civil office, rank, academic degree, and professorial title.

15.3. The salary of a Justice shall be determined by the State Great Hural, and shall not be reduced from the amount allocated in the preceding year.

15.4. Expenses incurred in the exercise of a Justice's duties shall be financed from the budget of the Court.

15.5. If a Justice is removed from their position pursuant to the grounds specified in Article 7.1 of this law, they shall be reinstated to their previous position, if feasible. If reinstatement is not possible, the Justice shall be offered a position with equivalent salary and benefits. If neither option is available, an allowance benefit shall be provided based on their previous salary as a Justice for a period of one year, until they secure alternative employment. Should the Justice

accept a lower-paying position, the difference between their previous salary and new income shall be compensated from the state budget.

15.6. The pension for a former Justice of the Court upon reaching retirement age shall be calculated based on no less than 60 percents of the salary they received as a Justice at the time the pension is determined.

15.7. A Justice shall be provided with life and health insurance.

15.8. The life and health insurance for a Justice shall include the following provisions:

15.8.1. if a health damage incurred while performing the duties results a death of a Justice, the insurance compensation shall be provided to their family, in an amount equal to the salary received by the Justice in the last 15 years;

15.8.2. if a Justice becomes unable to pursue professional activities due to health damage sustained while performing the duties, the insurance compensation shall be equal to the salary the Justice received in the last three years.

15.8.3. if a Justice suffers health damage that does not result in a loss of labor capacity or prevents them from continuing their professional activities, the insurance compensation shall be equal to the salary received by the Justice in the last year.

15.9. The premiums for the life and health insurance specified in Article 15.8 of this law shall be covered by the state budget.

15.10. If a Justice loses labour capacity due to health damage sustained while performing the duties and is unable to continue professional activities, a Justice shall receive a monthly compensation equal to 70 percents of the salary received while serving as a Justice.

15.11. If a Justice loses life while performing the duties, the children under 18 years of age and any family members who are unable to work shall receive a monthly allowance (compensation) equal to the salary the Justice received in their official position. This compensation shall be provided until the children reach 18, or until the family member regains labour capacity. The insurance premiums paid by the state, survivor's pension, and any other types of benefits, salaries, or grants received shall not be included in this calculation.

15.12. Matters related to the retirement of a Justice, as well as the duration of regular and additional leave, shall be governed by the relevant laws.

15.13. If a Justice is removed from their position based on the grounds specified in Article 7.1 of this law, they will receive a one-time allowance calculated based on the average monthly salary for a period of 36 months.

Article 16. Independence of the Court

16.1. No person or entity shall interfere with the powers and independence of the Court.

16.2. The Court shall be provided with the necessary conditions to function independently and continuously, without interruption or interference from any organization or official.

16.3. The enactment of laws or normative acts that undermine the independence of the Court or the impartiality of its Justices is prohibited.

16.4. No organization, official, or citizen shall interfere with or attempt to influence the activities of the Court.

16.5. The use of symbols or names identical to the Court's emblem or designation without permission is prohibited.

16.6. The Court shall have its own premises, equipped with the necessary conditions for its activities, including a reception area for citizens and a Session hall.

16.7. The security of the Constitutional Court's premises shall be the responsibility of the State Special Security Agency.

16.8. The State Special Security Agency shall ensure the safety of the Court, its Justices, and the participants in its Sessions, as well as maintain order during its sessions. The relevant regulations for this shall be jointly approved by the Chairperson and the Head of the State Special Security Agency.

Article 17. Budget and Financial Guarantees of the Court

17.1. The Court shall have an independent budget, which shall be adequate to carry out its activities.

17.2. The budget of the Court shall be approved by the State Great Hural upon the proposal of the Chairperson.

17.3. The scale for determining the salaries of the management, executive, and assisting positions in the Court's Secretariat shall be approved by the State Great Hural.

17.4. The budget of the Court shall not be reduced compared to the previous year's budget.

CHAPTER FOUR RESPONSIBILITY OF A JUSTICE

Article 18. Prohibited actions for a Justice

18.1. A Justice is prohibited from the following actions:

18.1.1. disclosing or using for personal purposes any state or official secrets, organizational confidentiality, or sensitive personal information acquired during the performance of their duties;

18.1.2. expressing their personal opinions or providing guidance in advance about a dispute under review by the Court before the conclusion is made public;

18.1.3. participating in or representing others in a court case or dispute, unless the rights or interests of a Justice or their family are involved;

18.1.4. holding any position or office unrelated to their official duties, except for teaching or conducting research;

18.1.5. engaging in activities that conflict with their political neutrality, independence, or impartiality, including business, trade, or any other activities;

18.1.6. misusing the prestige of their official position to serve their own or others' interests;

18.1.7. receiving assistance, services, or benefits from parties involved in a dispute, their representatives, or any other individuals or entities, or accepting undue advantages, discounts, monetary rewards, or illegal gifts;

18.1.8. engaging in commercial activities, managing a business, or being involved in the management of business organizations or associations, either personally or through an authorized representative;

18.1.9. establishing relationships with any party involved in a dispute or other individuals that could negatively affect the Court's reputation or the adjudication procedures;

18.1.10. discriminating against or harassing individuals based on their race, ethnicity, language, skin colour, age, gender, social origin, financial status, job, position, religion, beliefs, sexual orientation, education or disability;

- 18.1.11. using media outlets or public social networks to publish, spread, or broadcast any materials that negatively impact the reputation of the Court or its Justices, or affect the Court's operations, including opinions, images, audio or video recordings, or other forms of information;
- 18.1.12. disclosing the confidential nature of deliberations during the decision-making process or any confidential information regarding the Court's proceedings;
- 18.1.13. giving any instructions or orders unrelated to their official duties to the Court's employees or direct subordinates;
- 18.1.14. being a member of a political party or participating in political party activities, movements, non-governmental organizations affiliated with political parties, or religious organizations, except as allowed by law;
- 18.1.15. participate in any form in the election campaign for the President, State Great Hural, or the People's Representatives' Hural of provinces, sub-provinces, capital, or districts, allocate non-designated budget funds for such activities, use state-owned property, assets, or official vehicles for such purposes;
- 18.1.16. organizing or participating in strikes or any other actions aimed at disrupting the normal operation of the Court;
- 18.1.17. except for official assignments specified in international treaties of Mongolia and those mutually agreed upon between the government of Mongolia and foreign state institutions, or with the approval of authorized officials from the working organization, no Justice shall travel abroad or domestically at the expense of any enterprise, individual, including foreign organizations or individuals, while performing official duties.

Article 19. Suspension of a Justice

19.1. If it is deemed necessary to suspend the powers of a Justice of the Constitutional Court during the investigation of a crime committed by that Justice, the Prosecutor General of the State shall submit a proposal to the Constitutional Court.

19.2. The Deliberation shall consider the proposal referred to in Article 19.1 of this law within five working days of receiving it and shall decide whether to suspend the powers of the Justice of the Court through a secret ballot.

19.3. A Justice whose powers are being considered for suspension shall have the right to participate in the Deliberation, speak, vote, review the relevant documents, provide explanations and evidence, and receive legal assistance. During the Deliberation, the Prosecutor General shall orally present the proposal, along with its supporting justification.

19.4. If at least two-thirds of the Justices present at the Deliberation consider the proposal specified in Article 19.1 of this law to be justified, the powers of the Justice of the Court shall be suspended.

19.5. During the period of suspension of powers as specified in Article 19.4 of this law, the salary and wages of the Justice shall be calculated and paid at 90% of the regular amount.

19.6. The suspension of the powers of a Justice is prohibited without a decision from the Deliberation.

Article 20. Recall of a Justice

20.1. If the grounds specified in Article 65.4 of the Constitution occur, and the guilt of committing a crime is established by a valid court decision, the organization that initially nominated a Justice shall submit a proposal to recall the Justice of the Court, along with the supporting justification and documents, to the Constitutional Court.

20.2. Upon receiving the proposal specified in Article 20.1 of this law, the Court shall discuss it at the Deliberation within 14 days and decide whether there are grounds for recalling a Justice through a secret ballot.

20.3. A Justice whose recall is being considered has the right to participate in the full meeting, speak, vote, review the relevant documents, provide explanations and evidence, and receive legal assistance. In the Deliberation, the representative of the organization that initially nominated the Justice shall orally present the proposal along with its justification.

20.4. The decision of the Court regarding the grounds for recalling a Justice shall be made by a two-thirds majority of the Justices present at the Deliberation.

20.5. If the decision of the Court regarding the grounds for recalling a Justice is made in accordance with Article 20.4 of this law, the decision shall be sent to the organization that initially nominated the Justice and to the State Great Hural within five working days.

20.6. Upon receiving the decision of the Court as specified in Article 20.5 of this law, the State Great Hural shall decide whether to recall the Justice of the Court in accordance with the Law on Rules of Procedure of the State Great Hural of Mongolia.

20.7. The recall of a Justice is prohibited without a decision of the Court made in accordance with this law.

Note: The term “organization that initially nominated the Justice” as mentioned in this Article refers to the competent organization or official that recommended the Justice of the Court under Article 6 of this law.

Article 21. Seal, Letterhead, and Emblem

21.1. The Court shall have a seal and letterhead that are designed and produced in accordance with the regulations established by the Court.

21.2. The Court shall have its own emblem, and the Justices shall wear a gown and lapel pins. The designs and usage procedures for these shall be governed by the Rules of Procedure.

CHAPTER FIVE MISCELLANEOUS

Article 22. Liability for Violating the Law

22.1. Individuals or legal entities that violate this law shall be held accountable in accordance with the Criminal Code or the Law on Infringement.

22.2. If the actions of a government official violating this law do not constitute a crime or an administrative offense, accountability shall be determined in accordance with the Law on Civil Service.

22.3. If there are actions or inactions that violate the adjudication procedure or other criminal behaviour, the relevant authority shall be notified.

Article 23. Entry into force

23.1. This law shall enter into force on ..., 2025. Sign

II. EXPLANATORY NOTE

Introduction to the 2024 draft Law on the Constitutional Court of Mongolia and the 2024 draft Law on the Constitutional Court Procedure

April 02, 2025

1. Which state body initiated these drafts

During the 2020-2024 parliamentary term, the Standing Committee on Legal Affairs of the State Great Hural (Parliament) of Mongolia established a working group on September 28, 2021, tasked with developing a revised version of these laws and submitting it to Parliament. The working group was led by Mr. Munkh-Orgil Tsend, Member of the Parliament and worked on the draft law for three years before submitting it to the Parliament in March 2024. While the draft laws passed the first reading for discussion, they were not approved before the parliamentary term ended.

Following the 2024 general election, the parliament was newly established, and Mr. Munkhbaatar Lkhagva, Member of the Parliament is now leading the working group responsible for drafting these laws. This updated version, which was translated into English incorporates suggestions made during parliamentary discussions to improve the proposals.

2. The reasons and objectives behind the proposed laws

The Law on the Constitutional Court of Mongolia was adopted by the Small *Hural* of the Mongolian People's Republic on May 8, 1992, and the Law on the Constitutional Court Procedure was adopted by the State Great Hural (Parliament) of Mongolia on May 1, 1997. These laws established the legal framework for the operation of the Constitutional Court (hereinafter referred to as the "Court") and constitutional dispute resolution for the first time, playing a historic role in the development of constitutional law in Mongolia. However, aside from some amendments over the years, no significant reforms have been made to align the laws with the evolving constitutional framework, legal principles, social developments, and broader legal reforms.

Researchers and legal experts have criticized the Law on the Constitutional Court (*Tsets*) of Mongolia and the Law on the Constitutional Court Procedure for limiting the full implementation of constitutional review. Key concerns include the lack of comprehensive guarantees of independence for the Court and its Justices, inadequate structure and organizational unit for its continuous operation, and the absence of clear legal provisions regarding the qualifications, nomination, appointment process, and terms of its Justices. Additionally, the Constitutional Court has faced criticism for its procedural shortcomings. Compared to criminal, civil, and administrative case law, its procedures have been considered too brief and general, lacking the minimum requirements for procedural fairness found in ordinary courts. Furthermore, the court has been criticized for its limited competence in adjudicating fundamental rights disputes. Numerous studies, legal documents, and policy programs have emphasized the need to address these critical issues through legislative reforms.

Accordingly, the propose of these laws aims to align the Court with common standards and best practices of constitutional courts in democratic and rule-of-law countries. The reforms seek to create a legal framework that ensures the Court operates independently, fairly, and objectively, enabling it to adjudicate the constitutional disputes in accordance with the principles of the Constitution.

3. The main innovations these drafts introduce compared to the current legislation, and

3.1. The draft Law on the Constitutional Court (*Tsets*) of Mongolia (Revised Edition) introduces several key reforms, including:

- **Nomination and Appointment Process:** Clearly defines the timeframe for nominating and appointing a Justice of the Court by authorized bodies and officials. It mandates that the process must meet legal conditions and requirements, ensure transparency, and incorporate public and professional participation (Article 6).
- **Public Disclosure of Candidates:** Requires that the public be informed of a candidate's introduction to the Court at least five days before the nomination is submitted to Parliament (Article 6.4).
- **Principles and Responsibilities of Justices:** Specifies the principles, obligations, prohibitions, and restrictions applicable to Justices. It also details the grounds and procedures for suspending or removing a Justice (Articles 18, 19, 20).
- **A Structure of the Deliberation of all Justices was created:** It regulates the approval of the Court's Rules of Procedure and other issues at the Deliberation of all Justices (Article 9).
- **Courts Capacity Building:** Establishes a structure and organizational unit framework to enhance the capacity of the Court (Article 11). Each Justice shall have an assistant and a researcher (Article 12).
- **Judicial Independence:** Reinforces the independence of the Constitutional Court and its Justices (Articles 13, 14, 15, 16, 17).

3.2. The draft Law on the Constitutional Court Procedure (Revised Edition) also introduces procedural changes aimed at strengthening constitutional review and protecting fundamental rights:

- **Fundamental Rights Disputes:** Allows citizens to file petitions with the Constitutional Court if they believe that a decision or act by a legislative, executive, or judicial authority violates their fundamental rights after fulfilling the principle of the subsidiarity. This regulation conforms with Article 50.1.3 of the Constitution, which grants the Supreme Court the authority to adjudicate matters regarding the protection of human rights and freedoms prescribed therein, as transferred from the Constitutional Court (Article 16.1, Article 53).
- **Increased Transparency:** Includes regulations to enhance the transparency of the Court (Articles 10, 20).
- **Clearer Petition and Adjudication Procedures:** Defines the requirements for petitions, grounds for refusal, legal status of disputing parties, and rules for rejecting the initiation of a dispute or removing Justices (Articles 16, 17, 18, 30).
- **Change in Dispute Filing Process:** Previously, a single Justice determined whether to initiate the dispute proceeding. The draft law changes this, requiring initiating the disputes to be determined by the Small Bench of three justices (Article 38).
- **Procedural Fairness in Distribution of Petition, Information, Requests, and Disputes:** Establishes rules for the distribution of petitions, information, requests to justices, and composition to the Small Bench and the Medium Bench, ensuring randomness and the use of qualified software for unbiased allocation (Article 32).
- **Timeframe for Dispute Adjudication:**
 - The General Registrar shall determine whether petitions, information, and requests fulfill the requirements within 30 days of submission (Article 19).
 - The Court shall adjudicate the dispute within 90 days of filing.
 - If the dispute is complex, this period may be extended once by 90 days (Article 5).
- **Determining for Decisions:** After the deliberation, the Court shall formalize and issue its reasoning section for the decision within 45 days (Article 46). It also stipulates that a Justice has the right to publish a dissenting or concurring opinion alongside the decision (Article 48).
- **Clarified Dispute Adjudicate Procedures:** Specified the grounds and procedures for adjudicating disputes, including requests submitted by authorized persons (Articles 50, 51, 52, 53).

4. Any other relevant background information

As part of the legislative drafting process, the following activities were undertaken to support the development of the draft laws:

- A conference on *“Improving Constitutional Review”* was organized in October 2022, and a compilation of reports was published in 2023.
- The Venice Commission’s *“Compilation of Venice Commission Opinions, Reports and Studies on Constitutional Justice (Updated) CDL-PI(2020)004”* was translated into Mongolian and published in 2023 by The Constitutional Law Institute at the National University of Mongolia.
- The Venice Commission’s *“Revised Report on Individual Access to Constitutional Justice CDL-AD(2021)001”* was translated into Mongolian and published in 2023 by The Constitutional Law Institute at the National University of Mongolia.
- The *“Landmark Decisions of the Federal Constitutional Court of Germany in the Area of Fundamental Rights”* was translated and published in 2023 by the Constitutional Law Institute at the National University of Mongolia.
- Representatives of the working group visited the Federal Constitutional Court of Germany in December 2022 to study its experiences.
- Representatives of the working group visited the Constitutional Court of the Republic of Korea in April 2023 to study its experiences.
- The first draft of the law was translated into English and suggestion was received from the International Institute for Democracy and Electoral Assistance (International IDEA) in September 2023.
- The first draft of the law was translated into English and suggestion was received from Prof. Dr. Michael Eichberg, former Justice of the Federal Constitutional Court, Federal Republic of Germany in August 2023.