



**THE MONGOLIAN POLITICAL
ADMINISTRATION:
EFFECTIVENESS AND
CORRUPTION**

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The Mongolian Political Administration

Effectiveness and Corruption

By Kateryna Rolle¹

Abstract

This briefing paper marks the third in a series of papers on Mongolia and its relationship with the European Union (EU). The preceding gap between the end of the Country Strategy Paper (CSP) 2007-2013 and the beginning of the CSP 2014-2020, as well as the signing of the yet to be ratified EU-Mongolia Partnership Cooperation Agreement (PCA) presents an occasion to reflect on the current state of Mongolia, the success of EU-Mongolia relations, the development of the relationship from 1989 until 2013, and the prospects for further areas of cooperation between the two parties. As a result, this series of papers will look closely at the areas where cooperation has already been administered and the prospects for continued collaboration in the relevant areas with regards to the priorities of the EU and Mongolia, as well as new areas which should be considered for cooperation from 2014-2020. This third paper outlines the state of Mongolia's political administration, focusing particularly on its effectiveness, the presence of corruption and its relations with civil society. The paper will then address the political cooperation already achieved between Mongolia and the EU in resolving these issues, and finally, it will assess the likely areas where cooperation with the EU could be further administered in the next few years.

This paper expresses the views of the author and not the views of the European Institute for Asian Studies.

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List of Abbreviations and Acronyms

| | |
|------|--|
| CEO | Chief Executive Officer |
| COD | Community of Democracies |
| CPI | Corruption Perception Index |
| CSP | Country Strategy Paper |
| EIA | Environmental Impact Assessment |
| EU | European Union |
| EUR | Euro |
| IAAC | Independent Authority Against Corruption |
| MNT | Mongolian Tugrik |
| MP | Member of Parliament |
| NGO | Non-Governmental Organisation |
| PCA | Partnership Cooperation Agreement |

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Introduction

The Mongolian political system consists of three institutions; the executive, the legislature and the judiciary. The President and the Mongolian government make up the executive and the State Hural is the one chamber parliament. The country is governed by a constitution which provides for the rule of law and other important legal and institutional measures, including independence of the executive, legislature and judiciary. All Mongolian law is similarly expected to abide by the Constitution. Since 1989, when Mongolia transformed itself from a central, communist economy to a free market economy, numerous laws of high stature have been passed, leading to assumptions that the Mongolian legal political system is efficient and strong.² It is only recently that this perception has been challenged by internal and external actors, who accuse the Mongolian political administration of ineffectiveness and corruption.

This paper will analyse the failings of Mongolia's political system, focusing in particular on corruption and the relations between the political administration and civil society. The paper will then conclude with an evaluation of where cooperation between the European Union (EU) and Mongolia has already been administered, followed by an analysis of the potential areas for further EU-Mongolia cooperation, with the purpose of assisting the country in improving its political system. Research for this paper was mainly carried out through interviews as the paper required first-hand information, but some research was also conducted through consultation of official documents and press releases, as well as recent academic and media publications.

Failings and attempts to reform

In recent years it has become evident that Mongolia's legal and political system needs to be reformed. Failure to keep a proper record of the laws passed or decisions taken from 1989 onwards has led to contradictions between laws adopted at all levels of decision making. In numerous cases, official decisions have even been found to contravene the major laws. This development, combined with the lack of proper reading of laws, the ability of government ministries to pass any law that they like and repeal or amend a law within less than a year after its enactment, has created a weak rule of law and a judicial system which is incapable of properly enforcing the legitimate rights and interests of Mongolian citizens.³

Concerns have likewise been expressed over the lack of adequately qualified and trained professionals in the public sector. Many Mongolian government ministries are understaffed, with some 130 officials or fewer. The lack of competent staff means that the Mongolian government has experienced serious difficulties in achieving transparent and coherent implementation of government programmes, because the necessary mechanisms are not in place.⁴ This has led to government ineffectiveness and a lack of law enforcement,⁵ exacerbated by a lack of internal coordination. The Mongolian government has added to these difficulties by adopting legislative acts without proper preparation, with the result that the majority of laws are not based on quality research. There is also little or no review of

² Information obtained through interview.

³ Information obtained through interview.

⁴ Information obtained through interview.

⁵ European External Action Service. (2007). *Mongolia – European Community, Strategy Paper 2007-2013*, 23 February 2007, p.8.

laws following their implementation. The reasons for hastily adopting legislation are partly due to internal and external pressures, including from the EU.⁶

Aside from bureaucratic problems, the purpose and concept of the legal and political system will also need to be amended, as well as the mind-sets of the people in the relevant institutions and in everyday-life. The government recognises the need to constantly update knowledge and professional practices and ensure that valuable ideas and theories are not simply left on paper, but enforced.⁷ However, it is clear that it will take time to resolve the identified issues. During the summer of 2013, President Tsakhiagiin Elbegdorj introduced an initiative to address legal and judicial reform, paving the way for the introduction of a package of laws which are expected to renovate the Mongolian legal and judicial system. These proposed laws – which will enforce civil, criminal and judicial reform – are currently under discussion within the government, as well as with the public, professional entities, civil society and NGOs. By August 2013, the Mongolian parliament had already passed some of the laws from this package.⁸ Since then, the Criminal Code has been modified and reforms to the structure of the judicial system are expected to be introduced in the next couple of months.⁹

Corruption

Mongolia's political administration is renowned for corruption. This is not a new phenomenon, but in recent years has been exacerbated by the mining boom. Countless political representatives are Chief Executive Officers (CEOs) of successful and powerful Mongolian companies, and it is common knowledge that having friends or relatives in high places is essential for advancing in society.¹⁰ Members of Parliament (MPs) also only participate actively in issues regarding their self-interest, such as budget allocation and appointments. As a result, standing committee meetings, working group meetings, and parliament sessions regularly have to be delayed, as there are not even enough MPs present to reach a quorum.¹¹

The Corruption Perception Index (CPI) analyses perceived levels of public sector corruption. Mongolia ranked 83rd out of 177 countries in 2013, with a score of 38 out of 100.¹² In July 2013, 86 per cent of Mongolian citizens taking part in an international barometer survey stated that their political officials were corrupt. This score placed Mongolia as the second most corrupt country in the world – according to its citizens – just behind Liberia.¹³ Thus corruption is, unsurprisingly, regarded by critics as one of the main obstacles to the development of the country's economy and to bringing social justice to Mongolian society.¹⁴

⁶ Information obtained through interview.

⁷ Information obtained through interview.

⁸ Information obtained through interview.

⁹ The UB Post. (2013). *New steps laid out for the justice system*. Retrieved from <http://ubpost.mongolnews.mn/?p=6484>.

¹⁰ Information obtained through interview.

¹¹ The UB Post. (2013). *'76 Columbus' from the Banana Republic*. Retrieved from <http://ubpost.mongolnews.mn/?p=7071>.

¹² Transparency International. (2013). *Mongolia*. Retrieved from <http://www.transparency.org/country#idx99>.

¹³ Business-Mongolia.com. (2013). *Mongolia's war against corruption*. Retrieved from <http://www.business-mongolia.com/mongolia/2013/07/18/mongolias-war-against-corruption/>.

¹⁴ Information obtained through interview.

The Mongolian government has tried to tackle corruption within the political administration. It adopted the Anti-Corruption Law and the Anti-Money Laundering Law in 2006, which led to the establishment of a new anti-corruption agency in 2007, the Independent Authority Against Corruption (IAAC). The IAAC was given the responsibility of monitoring government bodies to ensure that these bodies abided by the rule of law. By introducing the IAAC, the government wanted to make clear to Mongolian society that corruption would no longer be tolerated at any level of authority and would be punishable by law.¹⁵ By February 2010, all civil servants, including high level and medium level officials, were required to submit asset and income disclosure statements to the IAAC; 297 were found to have misreported or submitted their statements late. As of the end of 2010, the IAAC had investigated hundreds of corruption cases. Of the roughly one-fifth referred for prosecution, about one in three resulted in convictions.¹⁶ The IAAC was also initially very active in promoting awareness of the new authority to local communities.¹⁷ The IAAC is currently investigating four out of 21 of Mongolia's province governors.¹⁸

The commitment of the current Mongolian government to fight against corruption has been exemplified by initiatives such as the hosting by President Elbegdorj of the World Economic Forum's Partnering against Corruption Initiative roundtable in Ulaanbaatar in April 2011¹⁹ and the adoption of another anti-corruption law, the Conflict of Interests Law, in 2012.²⁰ The country similarly made advances in tackling corruption during the first half of 2013. As host of the Community of Democracies (COD),²¹ Mongolia initiated a Zero Tolerance to Corruption initiative, which brought corruption to the top of the agenda at the conference held in Ulaanbaatar. The June 2013 presidential election was also transparent and there were no major complaints lodged over the election results.²²

It is clear that attempts at combating corruption are working to an extent, and that the IAAC was an important step in the right direction. However, the efficacy of the IAAC is still a major issue five years after its creation. Since the IAAC began to focus on political corruption, promoting awareness of its existence within local communities has been neglected, illustrating the importance of maintaining both functions. The IAAC also lacks resources, and the full commitment required for effective prevention and investigation of corruption cases. Currently its reports are promising and positive, but in practice, it is difficult to see a follow-up on the highlighted issues.²³ For example, Mongolian MPs' assets and net worth amounted to 1.137 billion Mongolian Tugrik²⁴ (MNT) in 2012 (approximately EUR 577 million). Out of the 74 MPs who divulged their wealth, just four of them accounted for 64 percent of the recorded total assets and net worth, equal to 7.6 percent of Mongolia's economy.²⁵ The enormous capital held by a select number of MPs highlights the extent to which corruption remains within the Mongolian political administration – yet to be dealt with by the IAAC.

¹⁵ Information obtained through interview.

¹⁶ Freedom House. (2011). *Mongolia*. Retrieved from <http://www.freedomhouse.org/report/freedom-world/2011/mongolia>.

¹⁷ Information obtained through interview.

¹⁸ The UB Post. (2013). *Secret to smart government*. Retrieved from <http://ubpost.mongolnews.mn/?p=6954>.

¹⁹ President of Mongolia. (2012). *President Tsakhiagiin ELBEGDORJ*. Retrieved from <http://www.president.mn/eng/president/biography.php>.

²⁰ Information obtained through interview.

²¹ A global intergovernmental coalition of democratic countries, with the goal of promoting democratic rules and strengthening democratic norms and institutions around the world.

²² Information obtained through interview.

²³ Information obtained through interview.

²⁴ The Mongolian Tugrik is Mongolia's national currency.

²⁵ The UB Post. (2013). *Bribery and Bold Statement*. Retrieved from <http://ubpost.mongolnews.mn/?p=6945>.

The IAAC has also faced charges of inefficiency and corruption within its ranks, due to its handling of the 2012 corruption case against Nambaryn Enkhbayar, the former President of Mongolia. Many argued that although it was likely that Enkhbayar is corrupt, he is no more corrupt than any other Mongolian politician and therefore the choice by the IAAC to prosecute was a political one.²⁶ It is thus claimed that in some cases the anti-corruption law has been used for political ends.²⁷ These assertions were nevertheless refuted in one interview, where it was pointed out that the prosecution of such a high-level politician simply proves that the rule of law is being enforced in Mongolia and proves that those who commit corruption will be punished, no matter who they are.²⁸

President Elbegdorj was re-elected in June 2013 with a renewed promise to continue the fight against corruption.²⁹ Since then, he has introduced the 'From Big Government to Smart Government' initiative. The move to a 'Smart Government' is expected to produce a corruption-free government, exemplified by a 'combination of skilled people, technological advancements, research and laws'.³⁰ Specifically, this initiative will pave the way for the introduction of 'accountability to all levels of public service'; the abolition 'of interference of the state in business operations'; keeping 'politics separate from the influences of business'; the intensification of 'the fight against corruption'; the creation of 'a state system that promotes the participation of legal governance; and making 'decisions based on research'. A declaration of support for this initiative was signed by Mongolian MPs on 22 December 2013.³¹ During the same month, the Speaker of the House took disciplinary action against negligent MPs by ensuring that their attendance of meetings is recorded by fingerprint scanners. MPs now also have to speak in the meetings in the order of their finger print scanning. The purpose of these new regulations is to guarantee that they actually participate in parliamentary affairs.³²

Finally, in order to combat corruption, the Mongolian Government is going to launch an e-procurement program, which will increase the transparency of the tender process for state pioneered projects by permitting free and equal distribution of information among domestic and foreign purchasers. This will supposedly ensure that the most suitable bidder receives the tender.³³ With the exception of the Prime Minister, MPs are also likely to be banned from simultaneously serving as ministers. Currently most MPs are members of the legislature and the executive, undermining the institutional branch independence outlined by the Constitution and helping to fuel corruption.³⁴

Relations with civil society

The rights of Mongolian non-governmental organisations (NGOs), civil society organisations and trade unions are enshrined in the Constitution. These civil groups occupy an important position in Mongolian society as they critique and hold the government to account. Mongolian civil society is relatively privileged because it is not subject to any systematic

²⁶ PacNet (2012) *For Mongolia, Two Symbolic Steps in the Wrong Direction*. Retrieved from <http://csis.org/files/publication/Pac1282.pdf>.

²⁷ Information obtained through interview.

²⁸ Information obtained through interview.

²⁹ The Asahi Shimbun. (2013). *Mongolian leader re-elected on anti-graft agenda*. Retrieved from https://ajw.asahi.com/article/behind_news/politics/AJ201306280023.

³⁰ The UB Post. *Secret to smart government*.

³¹ The UB Post. (2013). *MP'S SIGN DECLARATION ON THE 'FROM BIG GOVERNMENT TO SMART GOVERNMENT' INITIATIVE*. Retrieved from <http://ubpost.mongolnews.mn/?p=6991>.

³² The UB Post. *'76 Columbus' from the Banana Republic*.

³³ The UB Post. *Bribery and Bold Statement*.

³⁴ The UB Post. *'76 Columbus' from the Banana Republic*.

discrimination by the Mongolian government, and its activities are scarcely restricted.³⁵ Nevertheless, as many organisations have very limited resources and are not well-protected by Mongolian law, it is inherently difficult for them to survive. Those that are critical of general governance in the country and the environmental damage caused by mining,³⁶ find themselves particularly threatened. In addition, there have been instances where NGO's have been mistreated by the political administration; for example, the Mongolian government gave an NGO a space to run a hospice for old people, in cooperation with the Association of People of Disabilities. The NGO was then later evicted and offered no alternative space by the government.³⁷

Perhaps more significantly, the Mongolian government has consistently failed to consult NGOs, civil society and private entities during the preparation of laws.³⁸ In fact, the local communities which are most affected by mining activities are generally ignored by the government.³⁹ For example, a law decree was passed in 2012 allowing the government to move property owners off land if it was deemed to be in the public interest. However, there was no discussion at a local level, or any form of consultation process with NGOs or civil society about this law prior to implementation.⁴⁰ Furthermore, the EU has previously highlighted that the Environmental Impact Assessments (EIA) and their management plans – which are used as the main tool for better control of mining – undertake little or no public consultation on what to include and how best to ensure implementation by the Ministry of Nature and Environment (MNE).⁴¹

Fortunately, the Mongolian government has become more aware of the need to repair its relations with civil society in recent years. It is now trying to ensure that civil society is better respected by the political administration and to encourage movements from the bottom up, because these organisations are seen as the most suitable way of guaranteeing that the views of Mongolian citizens reach the government. A Citizens' Hall was introduced in the government house in 2009 for public consultation and discussion on issues of interest. Following its successful implementation, the facility has since been introduced into other city halls, as well as the countryside.⁴² The 2013 draft mining law was in fact debated at the Citizens' Hall from April 2011.⁴³ President Elbegdorj, with the assistance of government ministries, also recently initiated a conference to act as a forum for the discussion of national issues with the public.⁴⁴ The Discover Mongolia-2013 Mining Investors Forum took place from 5-6 September 2013, with the aim of encouraging constructive cooperation between Mongolian mineral sector stakeholders i.e. the industry, the government, and civil society.⁴⁵

The government has also given more power and financing to local administrations, which has led to a greater decentralisation of power. This is in direct contrast to the former period where the central government was completely responsible for political control and

³⁵ They can protest, speak freely and choose their own policies.

³⁶ European External Action Service. *Mongolia – European Community, Strategy Paper 2007-2013*, p.23.

³⁷ Information obtained through interview.

³⁸ European External Action Service. *Mongolia – European Community, Strategy Paper 2007-2013*, p.23.

³⁹ Asia Times Online. (2013) *Mongolia takes longer view of resource wealth*. Retrieved from http://www.atimes.com/atimes/China_Business/CBIZ-01-070313.html.

⁴⁰ Information obtained through interview.

⁴¹ European External Action Service. *Mongolia – European Community, Strategy Paper 2007-2013*, p.23.

⁴² Information obtained through interview.

⁴³ Asia Times Online. *Mongolia takes longer view of resource wealth*.

⁴⁴ Information obtained through interview.

⁴⁵ The UB Post. (2013). *Discover Mongolia-2013 Mining Investors Forum to take place*. Retrieved from <http://ubpost.mongolnews.mn/?p=5743>.

implementation of all laws. The discussion and proposal of ideas has been introduced within local administrations along with other local entities and concerned parties. Proposals are then forwarded by the local provinces to the central government, and assessed for possible assistance and backing. These are the first steps undertaken by the Mongolian government in order to address civil society and NGO concerns about the lack of consultation on their views.⁴⁶

EU-Mongolia cooperation

The EU has tried to assist the Mongolian government in improving the responsiveness and performance of its political administration. The Union outlined a public service system based on five principles of good governance: accountability, coherence, effectiveness, openness and participation. It also introduced measures to assist in capacity-building to ensure improved public sector management of the economy and political system. In this regard, it attempted to establish sustainable dialogue platforms between the relevant EU and Mongolia counterparts in order to provide a long-term mechanism for consultation and exchange on public management and good governance.⁴⁷

In terms of the success of these initiatives, it has been alleged that there are clear differences between what the EU offers and what has been effectively used or properly implemented.⁴⁸ In many cases, once EU projects are finished, officials do not take forward the knowledge acquired, as they fail to incorporate the lessons learned through EU projects into state development strategies. Most of the time, this failure to utilise knowledge and implement EU standards, is due to a lack of resources. It is difficult for Mongolia to invest in better quality provisions because it simply cannot afford to. However, in other cases, the absence of the implementation of EU initiatives simply represents a lack of appreciation of the relevant EU projects by the Mongolian bureaucracy.⁴⁹

Nevertheless, in line with requests from the Mongolian government for the period 2014 to 2020, the EU hopes to make progress on the implementation of EU standards. The Union recently introduced a project called 'Support to the Modernisation of Mongolia's Standardisation System'. This project will specifically target areas such as equality in public services, as well as providing technical assistance to ensure that EU provisions on general product safety, and on liability for defective products, are transposed into Mongolian legislation.⁵⁰

Corruption within the administration is another issue to which the EU pays close attention. As it stands, the EU does not work with the IAAC, although corruption levels are constantly being monitored and taken into account when deciding whether budget support should be offered to Mongolia.⁵¹ The European Commission also follows up and reports on the IAAC's activities, and is looking to encourage some concrete action in this respect. One future possibility would be for the EU to reinforce the IAAC with the know-how to accomplish the above. Finally, there are negotiations underway for Mongolia as the pilot country for a new

⁴⁶ Information obtained through interview.

⁴⁷ European External Action Service. (2011). *Development Cooperation Instrument, Mongolia*, pp.14-15.

⁴⁸ Information obtained through interview.

⁴⁹ Information obtained through interview.

⁵⁰ Information obtained through interview.

⁵¹ Information obtained through interview.

transparency initiative, proposed by Germany, to assist Mongolia in achieving transparency and accountability within the different government ministries, particularly the mining sector.⁵²

In terms of EU cooperation with Mongolian civil society, dialogue is on-going, albeit limited. All EU projects undertaken in collaboration with civil society have mainly focused on education and rural development.⁵³ However, it would also be beneficial for cooperation to occur in other areas; for example, the Union could help to promote local organisations, not only through capacity-building, but also by providing them with leverage so that they can conduct their own projects. Currently, the EU is formulating initiatives to support the work of NGOs and civil society organisations, funded through the thematic instruments.⁵⁴ The European Commission has similarly made efforts to include NGOs and civil society in the consultation process for the CSP 2014-2020;⁵⁵ efforts that will hopefully continue in relation to consultation processes for EU projects as well as implementation of other EU projects administered in cooperation with Mongolia.

Conclusion

At the end of communist rule in 1989, Mongolia established a political and legal system which was intended to act as a solid foundation for successful democratic and economic development. However, the country failed to achieve this goal because of a deficiency in ministry resources; the inability to effectively record laws passed; the lack of law enforcement; the failure to consult civil society and NGOs on the preparation of laws; and the failure to review their implementation once the laws had been passed. Corruption has similarly been responsible for obstructing the country's development. Even though Mongolia has made some progress by introducing legal and political reforms and anti-corruption initiatives, there is still much more that could be done. If the Central Asian state hopes to improve further, it will need to utilise the resources accumulated from its mining sector revenues to address the challenges to its effective governance.

Furthermore, the EU and Mongolia hope that the Partnership Cooperation Agreement (PCA) can be used to facilitate suitable assistance from the Union, to aid the country in its legal and political reform as well as its anti-corruption initiatives. It should be noted that some EU projects have already been established in this regard and the Union is also currently formulating initiatives to fulfil the above objectives. The EU should, nevertheless, be aware of its own limitations as well as those of the Mongolian government when it comes to the fruitful implementation of projects, particularly in relation to the limited – although growing – resources available to the Mongolian government. Mongolia could borrow EU frameworks for areas such as public health, food safety and investment criteria, and appropriate the mechanisms most suitable for Mongolia, saving time, research and money.⁵⁶ Ultimately, no matter how EU-Mongolia cooperation advances in this area, it is clear that the country requires an efficient, competent, consultative and ethical political administration if it hopes to develop successfully in the future.

⁵² Information obtained through interview.

⁵³ Information obtained through interview.

⁵⁴ This pillar advocates a demand driven and bottom up approach to EU funding; civil society is given the opportunity to receive grants for project proposals which have succeeded in the competition selection process.

⁵⁵ Information obtained through interview.

⁵⁶ Information obtained through interview.

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List of Interviewees

Bruno Buffaria, Head of Unit, Neighbourhood Policy, Directorate General for Agriculture and Rural Development

Dolgion Aldar, Executive Director, Independent Research Institute of Mongolia (IRIM)

H.E. Ivana Grollova, Ambassador of the Czech Republic to Mongolia

H.E. Khishigdelger Davaadorj, Ambassador of Mongolia to the EU and Benelux

Julianna Hyjek, Directorate General for Development and Cooperation

Laurent Bardot, Directorate General for Trade

Malgorzata Jankowska, Desk Officer for Mongolia, European External Action Service



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