

1. Twinning Project Fiche

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Beneficiary administration: The Supreme Court of Mongolia
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EU funded project
TWINNING TOOL

LIST OF ABBREVIATIONS

BS	Budget Support
CDCJ	European Committee on Legal Co-operation
CLIP	Country Level Implementation Plan
EC	European Commission
EU	European Union
EU MS	EU Member States
EUDEL	Delegation of the European Union to Mongolia
EUR	Euro (currency)
FA	Financing Agreement
FATF	Financial Action Task Force
GiZ	German company for International Cooperation
HSS	Hans Seidel Foundation
IAAC	Independent Authority against Corruption
IT	Information Technologies
MDD	Ministry of Digital Development
JDC	Judicial Disciplinary Committee
JGC	Judicial General Council
JTRII	Judicial Training Research and Information Institute,
MED	Ministry of Economy and Development
MOJHA	Ministry of Justice and Home Affairs
MOOC	Massive Open Online Course
NCGE	National Committee on Gender Equality
NDICI	Neighbourhood, Development and International Cooperation Instrument
OECD	Organisation for Economic Co-operation and Development
OSCE	Organisation for the Security and Co-Operation in Europe
PL	Project Leader
PSC	Project Steering Committee
RTA	Resident Twinning Adviser
SDGs	Sustainable Development Goals
STEs	Short-term experts
SCM	Supreme Court of Mongolia
SGP	State General Prosecutor's office
TAF	The Asia Foundation
ToT	Training of Trainers
UN	United Nations
UNDP	United Nations Development Programme
WB	World Bank

1. Basic Information

1.1 Programme:

“Effective implementation of justice reforms in Mongolia”, CRIS decision number: 2023/045-302, OPSYS Nr. ACT-62009 (2021-2027 Multiannual Indicative Programme - MIP - for Mongolia) - Direct Management under the Neighbourhood, Development and International Cooperation Instrument (NDICI-Global Europe).

1.2 Twinning Sector:

JH - Justice and Home Affairs, (Rule of Law and Fundamental Rights/ Judiciary and Fundamental Rights Sub-Sector/ Judiciary Rights Sub-Field)

1.3 EU funded budget:

EUR 1,500,000.00

1.4 Sustainable Development Goals (SDGs):

With respect to the SDGs the primary contribution of the project is to:

- Goal 16: Peace, justice and strong institutions by: (i) promoting the rule of law, transparency, accountability, good governance, and non-discrimination at all levels of government and (ii) ensuring equal access to justice for all and protecting everyone’s fundamental freedoms.

The project will also contribute to the efforts in achieving the following SDGs:

- Goal 5 to help achieve gender equality and empower all women and girls.
- Goal 10 to help reduce inequality within and among countries.

2. Objectives

2.1 Overall Objective:

The overall objective of the “**Support to the Justice of Mongolia - JU-MO**” Twinning project is to contribute to an independent, accountable and people-centred judicial system in Mongolia.

2.2 Specific objective:

The specific objective of this project is to actively contribute to the successful reform of the justice system in Mongolia, by strengthening the capacity of the judiciary and by improving the efficiency, the performance, the accountability and the accessibility of the justice sector.

2.3 The elements targeted in strategic documents i.e. National Development Plan / Cooperation agreement / Association Agreement / Sector reform strategy and related Action Plans:

The *Vision 2050* that was adopted by the Parliament in 2020 constitutes the long-term development policy of Mongolia. To reach the objective 5.1. “Optimise the distribution, control and balance of power and foster the stable governance” of the Vision, it is foreseen in the Action Plan covering the period 2021-2030, that one of the expected results will be to ensure the independence of the judiciary and strengthen the responsible and people-centered judiciary.

Action plan 2021-2030 under Vision 2050, approved by the 52nd decree of the Parliament of Mongolia in 2020 and foresees the following results:

- 5.1.9. Lower the bureaucratisation of the judiciary by introducing ICT advances.
- 5.1.10. Launch ethics training programmes for developing human resource capability of the judiciary sector.
- 5.1.11. Promote public trust by implementing programmes for enhancing judicial transparency, accessibility.

6.4. Develop investigation capability in cases of corruption crime and misconduct in the judicial branch and prosecution offices, and retrain judges and prosecutors at the international level.

The *General Direction for the Development of Mongolia in 2021-2025*, intends to:

5.5.4. Keep judicial independence from political and business groups and rebuild public trust.

The *Action Plan of the Government of Mongolia for 2020-2024* has one of its objectives aiming at ensuring the independence of judges and the judiciary, law reform that promotes human rights, the economy and the business environment, and strengthen justice and the rule of law by adopting the following measures:

4.4.1. A Judicial Disciplinary Committee and The General Council of the Judiciary, consisting of full-time members, will take comprehensive legal and organisational measures to improve the enforcement of civil and administrative court decisions and to strengthen the independence of judges and the judiciary.

4.4.4. Develop and implement a long-term “Law Reform II” measure based on Civil Law philosophy that meets the core national interests of Mongolia, respects human rights, and promotes economic growth.

4.4.6. To create a favourable business environment by improving the protection of private property, investment and intellectual property rights and improve the legal environment for e-contracts and agreements, consider contracts and agreements concluded in an electronic environment as evidence in court, computerise some court activities, and improve the legal environment to support the private sector.

The *Judicial administration strategic plan* adopted in 2020 aims to protect human rights and freedom in Mongolia by:

- strengthening capacity;
- ensuring a responsible and ethical judiciary;
- improving transparency and accountability;
- improving judicial independence;
- facilitating citizen-centered judiciary services and improving their accessibility;
- promoting open and transparent judiciary and public relations.

3. Description

3.1 Background and justification:

Mongolia has demonstrated a strong record in the area of democracy and rule of law ever since its dramatic change from totalitarian communist rule towards democracy in the early 1990s. Guarantees for the protection of human rights, rule of law and democracy are strongly anchored in Mongolia’s constitution adopted in January 1992. Mongolia achieved major successes in these areas: the country enacted a large number of new human rights laws, launched new administrative practices, and established new human rights bodies.

According to the Mongolian Constitution, the judicial system shall consist of the Supreme Court, Aimag and capital city courts, Soum, inter-soum and District courts. Specialised courts such as criminal, civil and administrative courts may be formed. The activities and decisions of these specialised courts shall not but be outside the supervision of the Supreme Court. The organisation of courts and the legal basis of their activities shall be determined by law. The courts shall be financed from the State budget. The State shall ensure economic guarantee of the court's activities.

Judges shall be independent and subject only to law. Neither a private person nor any official including the President, Prime Minister, members of the State Ikh Khural and the Government,

officials of political parties or other mass organisations shall interfere with the exercise by the judges of their duties.

The General Council of Courts shall function for the purpose of ensuring the independence of the judiciary and shall deal exclusively with the selection of judges from among legal professionals, protection of their rights and other matters pertaining to the ensuring of conditions for guaranteeing the independence of the judiciary.

The Supreme Court shall be the highest judicial organ and shall exercise the following power:

- to try at first instance criminal cases and legal disputes under its jurisdiction;
- to examine decisions of lower-instance courts through appeal and supervision;
- to examine and take decisions on matters related to the protection of law and human rights and freedoms therein and transferred to it by the Constitutional court and the Prosecutor General;
- to provide official interpretations for correct application of all other laws except for the Constitution;
- to make judgments on all other matters assigned to it by law.

The decision made by the Supreme Court shall be a final judiciary decision and shall be binding upon all courts and other persons. If a decision made by the Supreme Court is incompatible with law, the Supreme Court itself shall have to repeal it. If an interpretation made by the Supreme Court is incompatible with a law, the latter shall prevail. The Supreme Court and other courts shall have no right to apply laws that are unconstitutional or have not been promulgated officially.

The Supreme Court shall comprise the Chief Justice and judges. The President shall appoint the judges of the Supreme Court upon their presentation to the State Ikh Khural by the General Council of Courts, and appoint judges of other courts on the proposal of the General Council of Courts. The President shall appoint the Chief Justice of the Supreme Court for a term of six years on proposal of the Supreme Court from among its members.

The Prosecutor shall exercise supervision over the inquiry into and investigation of cases and the execution of punishment, and participate in the court trial on behalf of the State. The President shall appoint the Prosecutor General and his/her deputies in consultation with the State Ikh Khural for a term of six years.

Key figures of the Mongolian judicial system

There is one Supreme Court managed the Chief Justice who is appointed by the President for a single term of six years and there are twenty-four judges.

There are 26 Courts of Appeal and 90 Courts of First Instance.

These 117 courts have a total of 42 court offices at the first, appeal and review levels.

All these courts (except the Supreme Court) report their activities to the Judicial General Council of Mongolia.

Around 1800 employees of court administration and services are working in the office of the court in order to provide the conditions for the normal day to day operation of the court and to support the continuous smooth conduct of the proceedings.

The JGC consists of 10 members, of which five are judges and five are non-judge members (appointed by the Parliament). One judge from the Supreme Court, two from the Appellate Court and two from the Court of First Instance shall be elected from the Judicial General Assembly. Chairperson of the JGC is elected by a simple majority of the JGC members for a single term of one year.

The Judicial Disciplinary Committee (JDC) consist of 9 members, of which 4 are judge members and 5 are non-judge members (appointed by the Parliament). One judge from the Supreme Court, two from the Appellate Court and one from the Court of First Instance shall be elected from the General Assembly of Judges.

There are around 600 prosecutors in Mongolia who are responsible for ensuring the implementation of criminal law and law on violation, registering cases, investigating and supervising the execution of sentences, and participating in court hearings on behalf of the state, of which 67 are from the General Prosecutor's Office and 60 are from the administration.

There are around 2200 advocates (80% of them being registered in Ulaanbaatar).

The Law on Courts states that “the judiciary shall have an independent budget and the government shall provide the conditions of its continuous operation”. Article 28.3 of the Law on Courts then provides that the judiciary’s budget consists of the budgets of the Supreme Court, of aimag and capital city courts, of specialised courts, and of the Judicial General Council. Article 28.4 provides that the Judicial General Council develops the operational and investment budget for the courts of all instances, and submits it directly to the Parliament.

State of play and challenges

In the past thirty years, social and economic life in Mongolia have changed rapidly, and so has legislation. One of the key issues hindering Mongolia’s continued growth is the lack of capacity in the justice sector. Many challenges, such as inefficiency, irregularity, and weak accountability structures, are the result of outdated legal education, lack of trainings, and a lack of consistency in court decisions regarding the application of laws. These have proven to be counterproductive in the face of fast-changing legislation, international commitments, and steadily rising court cases.

Moreover, these challenges have contributed to the erosion of public confidence in the legal system, and a widely held perception that the judiciary is corrupt and lacking in independence.

According to a study by the Mongolian Bar Association and Asia foundation in 2019¹, 40% of respondents had the impression that citizens and business entities try to illegally influence the judicial and law enforcement officers. 38% of law enforcement officers and judicial officers answered that they are illegally influenced during the course of their action. This is a reflection of perception rather than reality. However, it shows that independence of the judiciary is an important topic to address.

Entry exam for judges

The recruitment of judges takes place according to the precise needs of each jurisdiction, in a short period of time in view of the different deadlines for conducting the call for applications, the examinations and publishing the results and is managed by the JGC.

There are many remaining vacancies after the exams as some jurisdictions are not so demanded as they are far from the capital and the level of the candidates is low. This means that there is no national competition and there is no national ranking system.

Finally, there is no psychological test and the content of the exams during the selection process is inadequate to ascertain the judge’s typical required soft skills.

Initial training for judges

The Law on Courts of 2021 introduced a 3-month specialised training course for newly-appointed trial judges. This training is provided by the Judicial Institute for Training, Research and Information, created for this purpose and placed under the authority and supervision of the Supreme Court.

¹ Personal communication as the report is not public

This initial training consists of two months of distance learning and one month of face-to-face training. No specific time is set aside in the new judges' timetable, so they are obliged to take the training on weekends or evenings.

At this time, initial training curriculum covers training for civil, administrative, and criminal judges

There are no initial training curricula for appeal judges.

The fact that the initial training is not closely linked to the system for selecting judges and that there is no training period subject to evaluation before starting to perform the duties makes the assessment of competences specific to the profession of judge even more problematic

In-service training for judges

In-service training is compulsory each year according to the Law on Courts Act of 2021. Judges are thus required to improve their knowledge and qualifications in the exercise of their powers (8 hours per year which seems to be insufficient). As such, it is specified that their salary continues to be paid during the professional training period.

The existing training offer of the JITRI is still poor and there is a strong need of a specialised training offer on topics such as commercial law, competition law, bankruptcy law, legal drafting and to increase and train trainers in these fields and to develop an online training offer. Due to the lack of specific time dedicated to training, it is hard for judges to attend these courses in addition to their professional duties.

Career and specialisations for judges

There are no specialised jurisdictions nor specialised judges for family cases, children's cases, commercial judges even if they are foreseen in the strategy of the Supreme Court.

Evaluation and performance

The JGC does not provide for a system of periodic professionalism evaluations of judges. Introducing an assessment system of the judges, and of the chiefs of jurisdiction for the management of their courts based on clear objectives, professional and performance criteria should be one of the key priorities of the JGC for the coming years.

Independence and impartiality

The law gives the JGC very broad powers to protect the independence and impartiality of judges. However, the composition and the nomination process of the JGC as well as the one of the Judicial Disciplinary Committee were criticised by international monitoring organizations² for their possible lack of independence due to the political appointments of some members and the distribution between judges and non-judge members. At this stage, no change of the legal provisions concerning the appointment procedures of the members of these institutions seem to be foreseen.

Digitalisation

Most of public organisations in the judiciary have taken steps towards digitalisation and built their own digital system, which is seen as a progress.

At this stage, they lack integration and exchange of data among the different actors and there are still issues to be negotiated including the establishment of a stable legal framework, financial resources to afford the amount of software supplies vital for ongoing sustainable use, safety of data, qualified staff and technical competence, etc.

The judiciary should integrate data from the following institutions: Ministry of Justice and Internal Affairs, Ministry of Digital Development and Communications, Judicial General Council of Mongolia, the State General Prosecutor's Office, the National Police Agency, and the Judicial Disciplinary Committee.

² Cf. Recommendations and opinions of the OSCE Office for Democratic Institutions and Human Rights on the Law on the Judiciary and on the Law on Courts and on the Legal Status of Judges

The general public does not seem to be provided digital means to get in touch with the judicial authorities except for some online hearings via free video-conferencing tools.

It is planned that a total of 42.3 billion MNT (13,218,750 euros) will be needed for the implementation of the court digitalisation policy. It should be included in the Government budget progressively over time every year but at this stage there are not enough funds to cover the digitalisation of the judicial system.

Budget

The court budget for 2022 is 79.2 billion MNT (around 24,750,000 euros), this representing 0.58 percent of the total Government budget.

The Law on Budget Saving passed in 2021 - limits the investment of government organisations. There are discussions to adopt a legal framework for not less than 1 percent of Mongolia's budget to be allocated to the justice and independently distributed. Currently, each jurisdiction is receiving more or less the same budget as the previous year and there are not clear criteria concerning the budget allocation between the different courts which are in very different situations concerning their premises, equipment and staffing.

Last but not least, it is foreseen to create a new performance-based financing system.

Ethics and discipline

The prevention of cases, the control, the coordination and cooperation with other bodies such as the General Prosecutor's office and the Independent Authority against Corruption, the scale of sanctions, the decision to take a sanction or not, the monitoring of the enforcement of the sanctions remain unclear and many improvements should be or could be done to ensure a more ethical judicial system.

The disciplinary provisions concerning the wrong application of laws after a complaint of a citizen seem to be too extensive replacing the function of higher courts to take corrective action by means of amendment or annulment of lower courts decisions.

3.2 Ongoing reforms:

Since the 1990's, the Mongolian judiciary has undergone a comprehensive process of change, however political influence has severely affected the independence and impartiality of the judiciary.

A second important reform of the judiciary started in 2020 aims to “ensure the independence of the judiciary promote human rights, strengthen the rule of law.”

On 14 November 2019, the Parliament passed amendments to the Constitution, which led the Parliament to adopt on 15 January 2021, the revised Law on Courts, in order to harmonise the law in relation to the constitutional amendments. The law replaces four separate laws: the Law on Courts (2012), the Law on Judicial Administration (2012), the Law on the Legal Status of Judges (2012), and the Law on Legal Status of Citizen Representatives of Court Trials (2012).

The revised Law on Courts, foresees among others that the Judicial General Council (JGC) is composed of 10 members (in the past 5), 5 non-judge members appointed by the Parliament, and 5 judge members elected from the Judicial General Assembly (in the past they were all appointed by the President). In addition, the Judicial Qualification Committee and the Judicial Ethics Committee were dissolved and superseded by the Judicial Disciplinary Committee (JDC), which aims to be an independent body responsible for the suspension, dismissal and other disciplinary action of a judge.

In relation to the appointment of judges, the President still has the power to appoint judges, but only following nominations from the JGC and the Parliament. However, appointment of Chief Justices of the first instance and appellate courts has been changed; previously, the President appointed Chief Justices of first instance and appellate courts, but now they are elected through secret ballot by the Council of Judges. As for the Chief Justice of the Supreme court he is still appointed by the President following nomination by the Supreme Court.

The Supreme Court has prepared a draft Strategic Plan for the period 2023-2026 having the following objectives:

Goal 1: Enhance citizens' confidence in the Court (Citizen-Centred court)

- Objective 1: Ensure the Court's independence and the sovereignty of judges.
 - o Sub-Objective: Guarantee the independence of judicial institutions
 - o Sub-Objective: Preserve judicial independence
- Objective 2: Enhance the quality and accessibility of adjudication and court operations.
 - o Sub-Objective: Elevate the quality of adjudication processes
 - o Sub-Objective: Advance the quality of court services
 - o Sub-Objective: Promote openness and transparency in court operations
 - o Sub-Objective: Facilitate optimal court operations
- Objective 3: Standardise law enforcement practices
 - o Action: Elevate the training quality for judges.
- Objective 4: Increase the accountability of judges
 - o Action: Strengthen institutional accountability.
 - o Action: Refine the knowledge, expertise, and leadership of judges.

The Judicial General Council has prepared a multi-year Judicial Strategic plan that should be discussed and adopted during the next Parliamentary session. It foresees an increase of the budget dedicated to the justice system as well as an increase of the number of judges and the development of the digitalisation and mobile justice.

The Twinning project will have to support the relevant Mongolian institutions in the implementation of the provisions of these Strategic Action documents as well as in following up on recommendations linked to justice system from international treaty monitoring bodies.

3.3 Linked activities: European Union

The European Union has been one of the key partners in Mongolia's transition toward democracy and market economy. On 1 November 2017, the Partnership and Cooperation Agreement (PCA) between the European Union and its Member States and Mongolia entered into force. Replacing the 1993 Agreement on trade and economic cooperation, the Partnership and Cooperation Agreement strengthens the existing relationship between the EU and its Member States and Mongolia, consolidates existing areas of cooperation and engagement, and deepens and diversifies relations further in areas of mutual interest.

The Agreement provides the legal framework for expanding EU-Mongolia relations and covers issues such as political dialogue, trade, development assistance, cooperation in the field of agriculture and rural development, energy, climate change, research and innovation, education and culture. Particularly, Title V of the Agreement is devoted to cooperation in the area of justice, freedom and security and Article 29 (Rule of law and legal cooperation) states: "*In their cooperation in the area of justice, freedom and security the Parties shall attach particular importance to the consolidation of the rule of law and the reinforcement of institutions at all levels in the areas of law enforcement and the administration of justice in particular*".

Technical assistance "Strengthening Commercial Mediation in Mongolia":

- 2 years project: 270,000 euros under the EU-funded SMEs Programme - Implementing partner: EBRD and IDLO together with MOJHA, launched in October 2023;
- Legal assistance on the revision of Mediation Law and promotion of commercial mediation to SMEs";
- Assist the Government of Mongolia in:
 - Improving the regulatory environment, institutional setting and practice of mediation in Mongolia,

- and promoting and facilitating the use of commercial mediation on a national scale with a particular focus on creating enabling environment for online mediation.

Technical assistance “Strengthening enforcement of commercial court decisions in Mongolia”:

- 2 years project: 435,000 euros under the EU-funded SMEs Programme - Implementing partner: EBRD together with MOJHA, launched early November 2023
- Assist the Government of Mongolia in improving the effectiveness of enforcement of commercial court decisions in the country, focusing on the digitalisation of the enforcement procedures in order to:
 - improve effectiveness of court decision enforcement and reduce delays in enforcement proceedings by way of improving the existing legal framework;
 - enable electronic auction of assets and improve efficiency of bailiff services by way of improving online case management system;
 - identify an optimal institutional structure and status for court decision enforcement authority with specific reference to civil/commercial court cases and reflect the findings in the draft revised version of the Law on Enforcement of Civil and Administrative Court Cases.

Mitigating the impact of COVID-19 by increasing children’s access to justice in Mongolia (2021-2022)

- EU grant: EUR 230,000, Implementing partner: IDLO
- Increased protection and access to justice for children, especially child victims of violence and those at risk in the context of COVID-19.
 - Strengthen capacity of Legal Committees on Child Rights (LCCRs) to increase child access to justice in the context of COVID-19;
 - Increase accreditation of civil society organisations (CSOs) to provide services for children;
 - Increase awareness of the child protection and child rights framework by children, families, and communities.

TAIEX Workshop on Digitalisation (March 2023)

- Peer to peer advice, exchange of expertise, best practices and lessons learnt have been discussed on the digitalisation of the judiciary. Some of the areas covered include:
 - Increasing public trust in Mongolian Courts by maintaining transparency more through digitalisation means;
 - Making coherent the digitalisation with other legal and judicial authorities for the implementation of digitalisation in courts;
 - Introducing the success stories of the court digitalisation in EU MS and other countries.
- Overall, the workshop concluded that a comprehensive digitalisation strategy was necessary in order to prioritise the involvement of all stakeholders, a funding plan, and close coordination between judicial and administrative bodies as well as the Ministry of Justice and Internal Affairs, the Ministry of Finance and the Ministry of Digital Development and Communications is necessary for modernising the Mongolian judiciary and making it efficient and effective.

EU-Mongolia Human Rights Dialogue

- The first ever EU-Mongolia Human Rights Dialogue took place on 30 March 2017. The overall objective of the human rights dialogue is to support Mongolia in its efforts to comply with domestic and international human rights obligations as well as rule of law and democratic principles. The dialogue also served to identify potential areas of cooperation and assist the government of Mongolia in upholding human rights and fundamental freedoms as well as in strengthening the rule of law.

EU-effective implementation of Justice reforms in Mongolia

- EU contribution agreement: EUR 500.000, implementing partner: IDLO
- Enhance participation of civil society and the media in accountability of the justice system, up to 60 months, to be launched mid-2024:
 - o Strengthen relations between civil society organizations (including women's rights, youth, persons with disabilities and LGTBIQ organisations) and the justice system actors to promote dialogue and collaboration in the justice reform process;
 - o Improve relations and communication between media and courts/justice actors.

Member States

Germany

GiZ

- Improving the performance of the Mongolian judiciary (2020-2023)
 - Increase in professional competence in the judiciary, especially among judges and court and judicial clerks
 - Digitalisation of the judicial system
 - Creating the core conditions for legal reform, i.e. improving and refining civil and economic (business) laws.

Hanns Seidel Foundation

- Development of curricula and support of seminars, workshops and conferences for judges in the field of Criminal, Administrative, Civil and Environment Law, with a strong focus on the judges of the Supreme Court and its chambers and by offering expertise and experiences from Germany.
- Worked development of curricula and support of seminars, workshops and conferences for executive authorities on the environment law, such as the Ecological Police, the National Forensic Institute and the University of Internal Affairs.
- Organised five courses for regional legal advisors and state attorneys in Bayan-Ulgii, Uvs, Khuvsgul, Selenge and Khentii Aimag and published respective handbooks.
- Broadcasted more than ten radio shows and podcasts on legal cases and respective legal procedures and published more than ten videos on basic legal procedures and relevant laws.
- Published in various newspapers on simplified introductions of laws.
- Supported a TV debate competition on the planned changes to the Constitution of Mongolia among students.
- Carried out two studies on the drafting and implementation of new or revised laws, for example on culture and human rights with the NHRCM.
- Brought Mongolian experts to Germany for research studies for the planned revision of the Commercial Code and the revision of the Law on the Constitutional Court.

Other donors

The Asia Foundation (TAF)

- TAF has supported anti-corruption efforts in Mongolia for over 15 years. Past projects have helped generate government action plans, supported the development of the Independent Authority Against Corruption (IAAC), and increased public understanding of corruption.
- With recent support from the ADB, the TAF is engaging justice sector stakeholders to study and improve the handling of corruption investigations and cases.
- TAF will soon start the implementation of a new USAID funded project in citizen participation and anti-corruption dealing with civil society and media.

International Development Law Organisation (IDLO)

Mongolian institutional integrity and transparency (2021-2024)

- The objective of this project is to improve investigation and prosecution of corruption cases by the IAAC, the Prosecutor General's Office (PGO) and relevant justice sector agencies.
- This project is funded by the State Department of United States, Bureau of International Narcotics and Law Enforcement Affairs (INL).
- Capacity development efforts are provided in order to improve coordination and broader engagement.

Strengthening the response to gender-based violence in Mongolia

- IDLO is providing support was also provided to the Supreme Court in the area of Gender based Violence with funding from Canada.

"Mongolia: Strengthening Enforcement of Court Decisions Phase I and II (SECD)" (2014-2016)

- This project has been supported by the European Bank for Reconstruction and Development with a budget of Euro 657,000.
- The beneficiary institutions were the Mongolian General Executive Agency for Court Decisions and the Mongolian Ministry of Justice and Home Affairs (MoJHA) with the objective to strengthen the enforcement of court decisions through the provision of conceptual support for the legislation working group of the MoJHA, Human resources capacity support to the Agency through training of trainers, apprenticeship and substantive training courses, as well as with institutional development support to the Agency.

3.4 List of applicable *Union acquis*/standards/norms:

The EU is based on the values of human dignity, freedom, democracy, equality, the rule of law and respect for human rights.

The Charter of Fundamental Rights of the European Union is a legally binding source of law in the EU that has equal legal force as the EU primary legislation that brings together all the personal, civic, political, economic and social rights enjoyed by people within the EU.

EU policies in the area of judiciary and fundamental rights aim to maintain and further develop the Union as an area of freedom, security and justice.

The establishment of an independent and efficient judiciary is of paramount importance. Impartiality, integrity and a high standard of adjudication by the courts are essential for safeguarding the rule of law. This requires a firm commitment to eliminating external influences over the judiciary and to devoting adequate financial resources and training. Legal guarantees for fair trial procedures must be in place.

Equally, Member States must fight corruption effectively, as it represents a threat to the stability of democratic institutions and the rule of law. A solid legal framework and reliable institutions are required to underpin a coherent policy of prevention and deterrence of corruption. Member States must ensure respect for fundamental rights and EU citizens' rights, as guaranteed by the *acquis* and by the Fundamental Rights Charter.

3.5 Components and results per component:

Component 1/ Result 1: Improved quality and strengthened capacities of the judiciary

This component aims to improve the quality of the legislation, as well as the quality of the jurisprudence and especially the level of enforcement of international conventions ratified by Mongolia, as well as the quality of law enforcement and finally to ensure the quality of the capacity building and training provided to the judges and has the following three sub-results:

- Legal advice and recommendation are formulated (1.1).

- Skills and capacities are enhanced (1.2).
- A unified application of legislation and a better law enforcement are strengthened (1.3).

Sub-Result 1.1: Legal advice and recommendation are formulated

The focus is on legal review of the existing legislation in order to assess its compliance with international obligations of Mongolia. Based on this review, recommendations for legal modifications would be proposed to ensure the compliance of the national legislation with international texts ratified by Mongolia.

The second focus is to provide to key Mongolian institutions on-demand legal advice and expertise on draft laws under preparation during project implementation.

Sub-Result 1.2: Skills and capacities are enhanced

The focus is to increase the capacity of the recently created Judicial Training and Research Institute to provide high-quality training to future and active judges through the provision of advice, training, handbooks, guidelines (etc.) to the staff of the JTRI, to ensure the selection and the competences of the trainers recruited by the Institute through the delivery of training-of-trainers sessions especially on training methods and on newly adopted legislation.

Last but not least, a comprehensive initial training curricula as well as updated and practise-oriented short in-service training modules for the judges that could be delivered face-to-face and/or online should be designed and pilot training sessions should be delivered.

Sub-result 1.3: Unified application of legislation and a better law enforcement are supported

It is a key priority of the Supreme Court to ensure that the Mongolian legislation is fully applied and understood by all the judges as well as its jurisprudence. To reach this expected result, regular awareness events or workshops for the judges on the international conventions ratified by Mongolia should be organised, online modules on concrete law enforcement cases should be developed.

In addition to this, allowing the access of the Supreme Court to EU and relevant human rights case law and jurisprudence, and developing a case law database within the Supreme Court should be supported.

Component 2 / Result 2: Increased performance and accountability of the judicial system

This second component aims at supporting the judicial institutions in their process of modernisation and professionalisation of the justice following the recommendations of European Committee on Legal Co-operation (CDCJ) as well as the key objectives of the Multi-Year Judicial strategy, and has three sub-results:

- The court management system is modernised (2.1).
- The court procedures are simplified (2.2).
- The rules concerning the career of judges are reformed (2.3).

Sub-result 2.1. The court management system is modernised

The focus is on developing new and modern court management instruments to ensure a better justice organisation through a mapping of the judicial organisation of Mongolia (number of courts, number of staff in these courts, number of citizens, number of complains, duration of the cases, budget).

Evaluations and recommendations for a new judicial organisation as well as on the costs and budgeting of the judiciary, through the provision of handbooks and guidelines for the chiefs of jurisdiction to help them to manage their courts and by sharing goods practices in the field in the EU.

Sub-result 2.2. The court procedures are simplified

The simplification of the judicial procedures is a key element for reducing the duration of the justice decisions as well as to reduce the bureaucracy and to accompany the on-going process of dematerialisation.

Based on the best EU experiences in the field, legal recommendations concerning the legislation governing the judiciary (such as the Court law) should be provided and supported as well as recommendations to simplify the decision-making-process, the internal procedures within the courts and the relations and communication channels between the courts and the Supreme Court and between the courts and the JGC.

Targeted support should be dedicated to the capacity building and to the development of the abilities, competences and skills of the clerks and the administrative staff through the preparation of training modules and on-the-job handbooks and guidelines.

Sub-result 2.3. The rules concerning the career of judges are reformed

Increasing the professionalisation of the judges and the attractiveness and excellence of the judicial profession as well as the performance of the judges are key elements to ensure a fair and efficient judicial system. Therefore, criteria to identify the skills, knowledge and factors of integrity requested for the judge profession will be presented and recommendations concerning the entry exams should be proposed in order to be introduced in the Mongolian system.

The criteria for assessing the performance as well as the evaluation mechanisms existing in the EU MS should be presented and pilot experimentations should be conducted.

Last, but not least, the overall career system of the judges, including promotion, mobility, salaries, ethical rules, career management should be assessed and recommendations should be made based on EU standards and experiences in the field.

Component 3/Result 3: Strengthened access to and confidence in the justice system

Equal access to justice by all Mongolian citizens should be promoted by reducing the number of complaints, by accompanying the development of the digitalisation with a set of legal provisions and by seeking to improve the image and confidence of justice among Mongolian litigants. This third component has three sub-results to achieve these objectives.

Experimentations in a pilot Court could be envisaged by the Twinning Partners while drafting the Twinning Action Plan:

- The mediation and conciliation procedures are promoted (3.1).
- The legislation linked to the digitalisation process are reviewed (3.2).
- Raising confidence in justice is supported (3.3).

Sub-result 3.1. The decrease of the disputes and the use of mediation and conciliation procedures are promoted

Legal recommendations based on Council of Europe guidelines concerning the legislations governing the mediation, the conciliation and the arbitration should be prepared in order to increase non-contentious procedures and a better access to amicable settlements of disputes and alternatives means of dispute resolution.

Sub-result 3.2. The legislation linked to the introduction of digitalisation process are reviewed

Legal review and recommendations for the introduction of a coherent legal package on transparency and access to data, data protection, e-signature, dematerialisation (etc.).

Targeted coaching and supporting handbooks and/or MOOCs should be prepared and disseminated to support judges and clerks to apply these new regulations and practises.

Sub-result 3.3. Raising confidence in justice is supported

Ethical behaviour and deontology rules governing all the judicial staff should be assessed and legal recommendations should be prepared to introduce the European standards and principles in the field. This should be promoted through targeted coaching and supporting handbooks and/or MOOCs should be prepared and disseminated to support judges and clerks to apply these new regulations and practises.

Based on EU good practices, recommendations should be prepared in order to increase the prevention of potential corruption and disciplinary cases. A communication strategy should be prepared to improve the image of the justice system.

3.6 Means/input from the EU Member State Partner Administration(s):

The implementation of the project requires one Project Leader (PL) with responsibility for the overall coordination of project activities and one Resident Twinning Adviser (RTA) to manage implementation of project activities, Component Leaders (CLs) and a pool of short-term experts (STEs) within the limits of the budget. It is essential that the team has a sufficient broad expertise to cover all areas included in the project description.

Proposals submitted by Member States shall be concise and focused on the strategy and methodology and an indicative timetable underpinning this, the administrative model suggested, the quality of the expertise to be mobilised and clearly show the administrative structure and capacity of the Member State entity/ies. Proposals shall be detailed enough to respond adequately to the Twinning Fiche, but are not expected to contain a fully elaborated project. They shall contain enough details about the strategy and methodology and indicate the sequencing and mention key activities during the implementation of the project to ensure the achievement of overall and specific objectives and mandatory results/outputs.

The interested Member State(s) shall include in their proposal the CVs of the designated PL and the RTA, as well as the CVs of the potentially designated component Leaders-CLs.

The Twinning project will be implemented by close co-operation between the partners aiming to achieve the mandatory results in a sustainable manner.

The set of proposed activities will be further developed with the Twinning partners when drafting the initial work plan and successive rolling work plans every three months, keeping in mind that the final list of activities will be decided in cooperation with the Twinning partners.

3.6.1 Profile and tasks of the PL:

The Project Leader shall be a senior staff member at an EU Member State public (governmental) body. Minimum requirements for the PL's profile are:

- at least Master's degree or academic equivalent in Law or equivalent professional experience of 8 years;
- at least 5-year experience in the judiciary system, as part of the overall professional experience;
- excellent command of English, both spoken and written.

The PL will implement the following tasks:

- overall coordination, guidance and monitoring of the project preparation and implementation;
- preparing the project progress reports with support of RTA;
- ensuring timely achievement of the project results;
- co-chairing the project Steering Committee;
- provision of legal and technical advice and policy analysis whenever needed;
- taking appropriate decisions for the smooth and effective implementation of the project.

3.6.2 Profile and tasks of the RTA:

The RTA should be a civil/public servant from an EU Member State, under the conditions set in the Twinning Manual. He/she will be responsible for the day-to-day implementation of the project. Minimum requirements for the RTA's *profile* are:

- at least Master's degree or academic equivalent in Law or other relevant fields or in its absence, professional experience in the relevant sectors of a minimum of 5 years;
- at least 5 years of relevant experience in the judiciary system;
- good knowledge of relevant EU legislative and institutional arrangements;

- data management experience an asset;
- good inter-personal, communication and facilitation, training, presentation, networking, negotiation, analytical and organisational skills, ability to work effectively in a multicultural/multinational environment with consideration of different stakeholders' interests;
- very good command of English, both spoken and written.
- previous experience in international projects and/or as RTA will be considered as an asset.

The RTA is expected to implement the following tasks:

- organisation and planning of the project activities both technically and administratively, overall supervision of the project implementation and coordination of all activities, as well as conducting the project administration;
- guiding the team members and coordination of their activities according with the defined work plans, for ensuing timely delivery of the project outputs;
- technical input to the project whenever needed and provision of advice in his/her field of expertise;
- organisation and supervision of the short and medium-term experts' work;
- assisting the PL in preparing the project progress reports.

3.6.3 Profile and tasks of Component Leaders:

The 3 Component Leaders will be short-term experts with a coordinating role during the overall period of the project implementation. They will be identified by the PL/RTA in the course of the project designing and implementation, and shall be agreed with the Beneficiary administration and the EU Project Manager, prior to contracting.

The Component Leaders shall have:

- at least Master's degree or academic equivalent in the subject relevant to the component or in its absence, professional experience in the relevant sectors of a minimum of 8 years;
- at least 5-year experience in their respective field/project component, as part of the overall professional experience;
- good command of English, both spoken and written;
- experience in international projects related to capacity building and reforms of judicial systems would be an asset.

In close cooperation with the RTA and their counterparts, the Component Leaders will organise, coordinate and supervise the works of the short-term experts related to their components, as well as provide technical expertise for implementing the activities defined by the work plan of the corresponding component and delivering the required outputs.

3.6.4 Profile and tasks of other short-term experts:

The Short-Term Experts will provide expertise related to the specific technical tasks. They will be identified by PL/RTA in the course of the project designing and implementation, and will be agreed with the Beneficiary administration and the EU Task Manager, prior to contracting.

The Short-Term Experts shall have:

- at least Master's degree or academic equivalent in the subject relevant to their specific task or in its absence, professional experience in the relevant sectors of a minimum of 5 years;
- at least 3-year experience in their respective field;
- good communication, presentation and training skills.
- good command of English, both spoken and written;
- experience in international projects related to digital transformation/e-governance

would be an asset.

4. Budget

The maximum total budget available for the action is EUR 1,500,000.

5. Implementation Arrangements

5.1 Implementing Agency responsible for tendering, contracting and accounting:

The European Union Delegation to the Mongolia will be responsible for tendering, contracting, payments, accounting and financial reporting, and will work in close cooperation with the Beneficiary Administration.

The persons in charge of this project are:

Mr Arnaud APPRIOU

Programme Manager

Delegation of the European Union to Mongolia

ICC Tower, Jamiyan Gun str. 9, 1st khoroo, Sukhbaatar district, Ulaanbaatar, Mongolia

Ph: (+976) 7511 5000 (ext. 210)

E-mail: arnaud-pierre.appriou@eeas.europa.eu

5.2 Institutional framework

The direct beneficiary of this Project is the **Supreme Court of Mongolia (SCM)**³ which is the principal executive body in charge of the implementation of the Twinning.

The Supreme Court of Mongolia is the highest judicial organ of the State and the court of last resort. It is comprised of a Chief Justice and 24 judges and its jurisdiction is exercised by three Chambers:

- Criminal,
- Civil and,
- Administrative Chambers.

The main duty of each Chamber is to adjudicate cases under their jurisdiction and provide professional guidance to judges. These Chambers are established by decision of the Supreme Court and their membership is approved by the Chief Justice.

The Administrative Department oversees the day-to-day operations of the Supreme Court related to archives and records procedures, manages and provides a professional and technical guidance to the Internal Division and administration staff, reviews and evaluates operational performance, encourages and charges employees and reports about annual and planned actions of the Administrative and Management Division to the officials.

Moreover, it has created a complex of technology system introducing up-to-date information, communication and technical solutions. It has organised activities towards working out and implementation of a unified policy and providing all justices and court administrative officials with professional, methodical and organisational guidance of information and technology.

For the purpose of improving a selection and planning of human resources, the Administrative Department of the Supreme Court worked out a unified policy on training and improving skills and qualifications of justices and court administrative officials. Also, it has been working out drafts on reformation of concerned rules and procedures on human resource corresponding to the need to improve the court's human resource management.

³ <https://www.supremecourt.mn/home>

The Court is headed by the Chief of Justice having among others the following duties:

- represent the respective court exercising his/her rights;
- schedule, organise and chair Consultation of Judges stated in paragraph 19.1 of the Law on Judiciary, and organise action to implement its decisions;
- unless otherwise stated in the law, formalise decisions appointing trial chair and panel;
- oversee actions of Court Administration providing response to reports and complaints lodged, not relevant to case adjudication proceedings;
- provide short term leave stipulated in the Article 72.1.10 of the Law on Judiciary upon discussion at the Consultation of Judges as well as absence of leave permitted by the internal procedures for judges;
- coordinate with functions of Presiding Judge of the Chamber;
- provide information to Consultation on the quality, outcomes of adjudication process, case management and oversight based on court practice and statistics;
- schedule a date for Supreme Court All- Justices Session and Consultation, facilitate preparatory work, chair sessions;
- represent Supreme Court in foreign relations;
- assign Supreme Court justices for domestic and foreign missions;
- coordinate activities between chambers and allocate issues other than case adjudication to the chambers for discussion;
- appoint and dismiss the Chair of Administration of Supreme Court and Director of the Judicial Training, Research, and Information Institute following information session to the Consultation;
- represent Supreme Court before the President, State Great Khural and Cabinet for decisions made by the Supreme Court en banc and Consultation;
- provide written responses to reports and complaints regarding adjudication process.

Under the Supreme Court, the following bodies may be involved in the Twinning:

- The ***Judicial Training Research and Information Institute⁴ (JTRII)***:

It has been established under the Supreme Court. Its functions are to:

- host trainings for judges,
- provide the courts and judges with research and information
- provide the Supreme Court with research and information; propose development of laws,
- collect and analyse judicial statistics,
- inform and promote judicial reform activities,
- publish a peer-reviewed, legal periodical journal,
- provide courts with information,
- exchange, disseminate experience and collaborate with similar organisation,
- promote the advancement of judicial as well as legal fields.

The Institute is composed of the Judicial Training Centre, Judicial Research Centre and Information Centre. This Institute is newly established and still requires significant capacity building. It nevertheless can play a key role in the effective implementation of the justice reforms.

Other institutions that will play a key role in the justice sector may be stakeholders of the project:

- The ***Judicial General Council⁵ (JGC)***:

Article 49, Section 3 of the Constitution of Mongolia, adopted in 1992, states: “The Judicial General Council of Mongolia shall work to ensure the independence of judges and the independence of the courts.” According to the 2021 Law on the Courts of

⁴ <http://www.jtrii.gov.mn/>

⁵ <http://www.judcouncil.mn/>

Mongolia, the Judicial General Council will consist of 10 full time members and will serve only once for a period of four years. Five members of the Judicial General Council of Mongolia were elected by secret ballot from among the judges at the first session of the General Judges, and the other five members were appointed by the State Parliament Assembly / Ulsiin Ikh Khural / through open nominations from among the lawyers. The head of the Judicial General Council of Mongolia is elected only once by a secret vote from among the members for a period of one year.

The Judicial General Council of Mongolia's Judiciary shall ensure the independence of the courts and the independence of the judges, provide information, research, financial, economic, technical and organisational assistance to the judges and court members in resolving cases and disputes. Provide administrative policy, management and organisation of the court.

Its functional committee to judiciary independence is in charge of:

- Improving the legal framework for court and court administrative activities, issuing rules and organising and implementing them,
- Introducing advanced communication and IT technologies in the court, development of electronic court,
- Improving the management of court case traffic, to provide statistics, reports and information,
- Expanding and developing external and internal relations and cooperation between the primary and appellate and judicial administrative organisations,
- Providing the conditions for the participation of citizens' representatives in the joint resolution of cases and disputes in the first instance court in accordance with the procedures prescribed by law,
- Providing organisation of mediation activities in court Determining the position of the judge, the organisation of the office, the location of the court, and the proposal to establish, change, or dissolve the court,
- Providing special court archive services.

Its functional committee to judiciary human resources is in charge of:

- Organising the selection of judges and implementation of human resource management of judges,
- Providing courts with qualified administrative human resource management,
- Implementing training and research of judicial administrative staff.

Its functional committee to maintain independence of judges and protect their legal interest is in charge of:

- Monitoring, evaluating, researching and taking relevant measures on the independence of judges,
- Protecting the legitimate interests of the judge,
- Implementing the work of protecting the rights and legal interests of judges, and to take measures in case of violation,
- Taking appropriate measures and prevent violations in the event of situations that adversely affect the independence and inviolability of judges, or infringe on the rights and legal interests of judges,
- Organising the prevention of corruption and conflicts of interest in accordance with the law.

Its functional committee to ensure court financial and economic security is in charge of:

- Define and implement the budget and investment policies of the first and appellate courts and court administrative organisations,
- Take measures to ensure economic security of the court,
- Providing financial and administrative services to the courts of first instance and appellate courts,

- Allocate the budget of the court according to its purpose and organise the execution of the budget efficiently construction of courthouses, meeting rooms and other buildings that meet security standards.

Its functional committee to provide courts with information is in charge of:

- Publicise court activities,
 - Provide transparent and open information issued by the judicial administrative organisation,
 - Creating a database of electronic and other forms of court decisions,
 - Court Offices should have a website and communicate with citizens through it.
- **The *Judicial Disciplinary Committee*⁶ (JDC):**

Article 49.6 of the Constitution of Mongolia states there shall be a Judicial Disciplinary Committee with the function of suspending, dismissing, and imposing other disciplinary actions against judges under the procedures and grounds specified in the law and its power, operational procedure, requirements for the members and appointment procedure shall be determined by law. It consists of nine members. It includes one judge from the Pre-trial Review Court, two from the Court of Appeal, and one judge from the First Instance Court.

The Disciplinary Committee members are elected by the General Assembly of Judges by secret ballot. As for the remaining five members of the Disciplinary Committee, they will be appointed by the State Great Hural. A sole non-judge member of the Disciplinary Committee shall be a citizen who has never worked as a judge. The term of the Disciplinary Committee shall be six years and members shall be elected and appointed only once. The term of the Committee member expires with the appointment of the next Committee member.

If a judge commits a disciplinary violation, the Disciplinary Committee shall impose one of the following disciplinary sanctions:

- public reprimand,
 - private admonishment,
 - to reduce the salary by up to 20 percent for up to six months,
 - to suspend the powers of a judge for up to three months and instruct him to attend training,
 - resignation.
- **The *Ministry of Justice and Home Affairs*⁷ (MJHA):**
This Ministry will be also a key stakeholder in so far as it has the mandate to uphold the principles of fairness and rule of law in Mongolia, and aims to create legal guarantees so that the government may ensure human rights and freedoms.
The mission of the Ministry is to implement the principle of justice and rule of law in Mongolia and to provide the state with legal guarantees that guarantee human rights and freedoms.
 - ***The Independent Authority against corruption*⁸ (IAAC)**
It is a special, independent government body charged with functions to raise anti-corruption public awareness and education, and corruption prevention activities, and to carry out under-cover operations, inquiries and investigations in detecting corruption crimes, and to review and inspect the assets and income declarations of those required by this law.

⁶ <https://judiscom.mn/eng>

⁷ <https://mojha.gov.mn/>

⁸ <https://en.iaac.mn/#>

The IAAC assumes the following objectives:

- Organise corruption prevention and public awareness activities;
- Register, store and inspect Declarations of Personal Interest and Income and Assets;
- Conduct intelligence gathering, inquiry, investigation activities to detect corruption crime.

The IAAC shall exercise the following duties:

- Submit proposals to respective authorities on adopting government anti-corruption policy and resolutions, and on further amendments to improve anti-corruption legislation;
- If it is determined that conditions conducive to corruption have emerged, and that conflicts of interest exist, the Agency shall insist on revising and invalidating orders, decisions, procedures and rules enacted by state bodies or officials;
- Obtain information, surveys and reports from government bodies regarding their anti-corruption public education and corruption prevention activities;
- Obtain necessary information, surveys, explanations, definitions and other documents from business entities, officials and individuals, free of charge and review these materials and acquire expert analyses and verifications;
- Conduct undercover work and cooperate with other agencies in charge of investigative and intelligence-gathering work to conduct investigations to detect and stop corruption offences;
- Accept and inspect corruption related complaints and reports;
- Investigate corruption cases under its jurisdiction;
- Collect data and information on matters pertaining to its functions and keep the information confidential;
- Take measures to ensure the security of the Agency and its staff;
- Obtain written guarantees from officials and individuals to maintain the confidentiality of information that they are exposed to in the course of investigations. In case of violation of the guarantee, they shall assume responsibility according to legislation;
- Transfer information irrespective to the specific corruption offence, identified during the course of investigative work, to the competent authorities;
- If necessary, place witnesses and other persons who assisted in anti-corruption work under the protection of the police;
- Obtain from each respective authority the list of government officials whom are required to declare their assets and income, and review the declarations;
- Supervise the competent organisations' and officials' adherence to the procedure for registering, storing, and monitoring declarations of assets and income declarations, and provide them with information;
- Oversee the submission of assets and income declarations by declarers, and impose the penalties on those persons who fail to submit within due time, or who deliberately provide false information.
- Prepare written guidance and recommendations on matters related to assets and income declaration;
- Cooperate with respective foreign and international organisations, and exchange information related to combating corruption.

Other stakeholders:

The other legal professions/institutions such as the General Prosecutor's Office, the Bar Association, the Association of Advocates, the clerks, the notaries, as well as the Chambers of Commerce should be involved in the Twinning, for example in the various training, capacity building and awareness raising activities.

5.3 Counterparts in the Beneficiary administration:

The PL and RTA counterparts will be staff of the Supreme Court of Mongolia (SCM) and will be actively involved in the management and coordination of the project.

5.3.1 Contact person:

Mr Ganzorig Damdin, Chief Justice of the Supreme of Court of Mongolia

5.3.2 PL counterpart:

Ms Zayadelger Sodnomtseren, Chief of Secretariat of the Supreme Court

5.3.3 RTA counterpart:

Mr Tsogt Tsend, Justice of the Supreme Court

6. Duration of the project

The project implementation period is 24 months and it includes 3 months of inception period. The execution period is of overall 30 months and it includes 6 months of closure period.

7. Management and reporting

7.1 Language

The official language of the project is the one used as contract language under the instrument (English). All formal communications regarding the project, including interim and final reports, shall be produced in the language of the contract.

7.2 Project Steering Committee

A project steering committee (PSC) shall oversee the implementation of the project. The main duties of the PSC include verification of the progress and achievements *via-à-vis* the mandatory results/outputs chain (from mandatory results/outputs per component to impact), ensuring good coordination among the actors, finalising the interim reports and discuss the updated work plan. Other details concerning the establishment and functioning of the PSC are described in the Twinning Manual.

7.3 Reporting

All reports shall have a narrative section and a financial section. They shall include as a minimum the information detailed in section 5.5.2 (interim reports) and 5.5.3 (final report) of the Twinning Manual. Reports need to go beyond activities and inputs. Two types of reports are foreseen in the framework of Twining: interim quarterly reports and final report. An interim quarterly report shall be presented for discussion at each meeting of the PSC. The narrative part shall primarily take stock of the progress and achievements *via-à-vis* the mandatory results and provide precise recommendations and corrective measures to be decided by in order to ensure the further progress.

8. Sustainability

The main objective of the Twinning is to support the Mongolian judicial institutions in the implementation of their strategic priorities which have a longer duration than the Twinning project. This means that the Beneficiary institution is fully committed to ensuring a long-term impact of the activities of this Twinning Project.

The Twinning project will contribute to create relations and exchange between the EU and the Mongolian institution, thus facilitating the signature of Memorandum of Understanding between the Mongolian institutions and their peers in the EU and the judicial cooperation between Mongolia and the EU Member State could be reinforced.

The pilot experimentation in a court conducted in the third component will allow to identify good practices that could be extended to the overall judicial system after the end of the project creating a multiplier effect on a national scale as the experience and expertise gained by the relevant authorities is highly replicable in all courts.

Capacity building and training-of-trainers measures will secure that they have a technical and managerial expertise to continue their activities. Therefore, training-of-trainers activities will contribute to maintain and update the training materials developed during the Twinning implementation and to train a larger number of participants after the completion of the Twinning. Last but not least, upon completion of the twinning the workshop and course material will be transferred to the Judicial Training Research and Information Institute, and should form part of its training offer.

9. Crosscutting issues

The Twinning itself focuses on the universal cross-cutting issue of access to justice. Strengthening trust, credibility and transparency has direct implications on access, and as long as the efficiency, quality and integrity of the system is increased, a better service will be guaranteed and solid access will be promoted to allow the exercise and safeguarding of rights as laid down in the key European and international conventions.

Civil society (CSO) / stakeholder involvement

Civil society (CSO) / stakeholder involvement and feedback is of great importance to communicate in a transparent and effective way with the general public and to raise the confidence of Mongolian citizen in their justice. Their reports and survey concerning the independence, the perception of the judicial system will be very useful to monitor the impact of the ongoing reforms.

Equal Opportunities and non-discrimination

Concerning equality of the sexes (SDG 5), the project will contribute to women empowerment by strengthening the equal access to Justice and advocating for an increased participation and representation of women within judicial services.

Environment and climate change

The European Union attaches great importance to the protection of the environment and climate change. This project is expected to have a neutral impact on the environment. Resources and recycling methods will be used (e.g. paper recycling, recycling of printer toner, etc.) in order to minimise the impact of the project on the environment. Furthermore, it is expected that all flights related to this project are off-set against their CO2 emissions.

The digitalisation process of the justice system will contribute to reduce the use of paper in the judicial procedures.

10. Conditionality and sequencing

There are no preconditions defined for this Twinning project.

11. Indicators for performance measurement

Please see Annex 1: the Simplified Logical Framework Matrix

12. Facilities available

The Supreme Court will host the Member State experts in its premises. The EU MS experts will be provided with office space, security related arrangements and facilities for training, seminars, conferences.

Purchase of notebooks/laptops, including necessary software, for the project staff shall be budgeted in the project to ensure daily interactions in office and while teleworking within the global ceiling of EUR 20,000 foreseen for the purchase of goods (see section 3.8 of the Twinning manual/Annex A7). Goods purchased with project funds become the property of the Beneficiary at the end of the project provided a handover certificate is signed by both PLs and the items are registered in the asset register of the Beneficiary.

ANNEXES TO PROJECT FICHE

- 1. Simplified Logical framework matrix as per Annex C1a**
- 2. List of relevant Laws and Regulations and Policy documents**
- 3. Overview of the Court system in Mongolia**

Annex 1: Simplified Logical framework matrix as per Annex C1a

This logical framework matrix is of indicative nature, the applicants are invited to adapt/complement the LFM further in line with their proposed methodology.

This indicative logframe constitutes the basis for the monitoring, reporting and evaluation of the intervention.

On the basis of this logframe matrix, a more detailed logframe (or several) may be developed at contracting stage. In case baselines and targets are not available for the action, they should be informed for each indicator at signature of the contract(s) linked to this AD, or in the first progress report at the latest. New columns may be added to set intermediary targets (milestones) for the Output and Outcome indicators whenever it is relevant.

- At inception, the first progress report should include the complete logframe (e.g., including baselines/targets).
- Progress reports should provide an updated logframe with current values for each indicator.
- The final report should enclose the logframe with baseline and final values for each indicator.

The indicative logical framework matrix may evolve during the lifetime of the action depending on the different implementation modalities of this action. The activities, the expected Outputs and related indicators, targets and baselines included in the logframe matrix may be updated during the implementation of the action, no amendment being required to the Financing Decision.

	Description	Indicators (with relevant baselines and target data)	Sources of verification	Assumptions/Risks
Overall Objective	To enhance the Rule of Law and the citizens' trust in the State institutions through an active contribution to the successful reform of the justice system in Mongolia	1. Score of Freedom House's Freedom in the World: 84/100 (2022), 85/100 (2028) 2. Score in Corruption Perceptions Index: 33/100 (2022), 35/100 (2028) 3. Human Rights and Rule of Law Country Score according to the Fragile State Index: 4.1/10 - 2022, 3.9/10 - 2028	1. Freedom House Freedom in the World Report. 2. Transparency International Corruption Perceptions Index. 3. Fragile State Index	N/A
Specific (Project) Objective(s)	1. To improve quality, strengthen capacities and independence of the justice actors	1.1 % of the population who perceive the overall quality of justice dispensed as good or very good (disaggregated by sex, age and disability status): TBC following baseline survey (2023), TBD based on outcomes of baseline survey (2026)	1.1 At least two rounds of public surveys as part of the project M&E system. 1.2 Government budget and report on execution.	<ul style="list-style-type: none"> • Mongolian authorities from the executive, legislative and judiciary branches have willingness to engage in the reform efforts, and provide the adequate number of resources, guarantees and attention to

		<p>1.2 Share of budget allocated to the justice sector on the implemented budget: 1.62% (2023), TBD during inception stage</p> <p>1.3 % of people who partly or fully agree that judges are able to make decisions without direct or indirect interference by Government or politicians (disaggregated by sex, age and disability status): TBC following baseline survey (2023), TBD based on outcomes of baseline survey (2028)</p>	<p>1.3 At least two rounds of public surveys as part of the project M&E system.</p> <p>1.4 Possible other sources:</p> <ul style="list-style-type: none"> • Reports from OSCE/ODIHR and UN treaty monitoring bodies • Multi-Year Judicial strategy implementation assessment report • Judicial administration strategic plan implementation assessment report • Twinning quarterly and progress reports 	<p>strengthen the capacity and independence of justice actors.</p> <ul style="list-style-type: none"> • The Mongolian authorities are committed to implement the objectives of the Action plan 2021-2030 under Vision 2050 and to reach its expected results
	<p>2. To increase efficiency, performance and accountability of the judicial system</p> <p>3. To promote accessibility and raise confidence in justice</p>	<ul style="list-style-type: none"> • National legislation in the field of judiciary is in line with relevant OSCE/ODIHR recommendations: partially in line in 2023, in line with a majority of relevant OSCE/ODIHR recommendations (2028). • National legislation in the field of judiciary is in place and/or amended in line with international standards: UN Treaty monitoring bodies Recommendations report non-compliance (2020), Recommendations from UN Treaty Monitoring Bodies evidence alignment (2028). • Score in World Justice Index: 0.54/1 (2022), 0.56/1 (2028). • Number of pending cases in courts – first instance per 100 inhabitants (disaggregated by type of case: civil, commercial, administrative, and other): Data 	<ul style="list-style-type: none"> • Opinions of the OSCE-ODIHR. • UN Treaty Monitoring bodies recommendations. • World Justice Index. • www.shuukh.mn (database where judiciary proceedings information are centralised) 	<ul style="list-style-type: none"> • Mongolian authorities from the executive, legislative and judiciary branches have willingness to engage in the reform efforts, and provide the adequate number of resources, guarantees and attention to strengthen the capacity and independence of justice actors. • The Mongolian authorities are committed to implement the objectives of the Action plan 2021-2030 under Vision 2050 and to reach its expected results

		<p>will be centralised at inception stage, TBD following inception stage</p> <ul style="list-style-type: none"> Percentage of cases are over-ruled or where the sentence is reduced on appeal: Data will be centralised at inception stage, TBD following inception stage 	<ul style="list-style-type: none"> Public sector administrative data to be requested and analysed by the project at least twice during the implementation period <p>Also: Twinning quarterly and progress reports</p>	
Mandatory results/outputs by components	Component 1: Improve quality and strengthen capacities of the justice actors			
	<i>Sub-Result 1.1: Legal advice and recommendation are formulated</i>	<ul style="list-style-type: none"> Number of recommendations from international bodies that are successfully implemented by the justice sector with EU support 	<ul style="list-style-type: none"> Reports from OSCE/ODIHR and UN treaty monitoring bodies Assessment report Recommendation report Newly adopted legal framework Project reports 	<ul style="list-style-type: none"> The Parliament is committed to adopt national legislation in compliance with international standards The judges apply the revised and newly adopted legislation
	<i>Sub-Result 1.2: Skills and capacities are enhanced among judicial and legal trainings entities</i>	<ul style="list-style-type: none"> Number of trained trainers (following the ToT approach) to improve skills, knowledge and expertise of judges, prosecutors, lawyers, and other justice actors with EU support (disaggregated by sex, age). Number of stakeholders in the justice sector trained on human-rights-based, gender-responsive approaches and incorporating international commitments in the application of the law/enforcement of decisions with EU support (disaggregated by sex, age). Number of new courses and curricula developed Number of trained judges 	<ul style="list-style-type: none"> SWOT analysis of JTRII Training attendance Training sessions assessments made by the trainers Evaluations fulfilled by the participants 	<ul style="list-style-type: none"> Justice sector stakeholders are willing and motivated to learn new topics and to improve their skills Training institutes, such as JTRII are recognised key in providing trainings to justice actors. Capacity of identifying and attracting competent and motivated trainers

	<i>Sub-result 1.3: Unified application of legislation and a better law enforcement are strengthened</i>	<ul style="list-style-type: none"> National legislation in the field of judiciary is in place and/or amended in line with international standards 	<ul style="list-style-type: none"> Compliance and assessment reports from relevant international organisations such as OSCE/ODIHR and UN treaty monitoring bodies Website www.shuukh.mn (database of judiciary proceedings) Legal database within the Supreme Court 	<ul style="list-style-type: none"> The first and appeal courts are applying the jurisprudence of the Supreme Court The Mongolian judges refer to international standards
Mandatory results/outputs by components	Component 2: Increase performance and accountability of the judicial system			
	<i>Sub-result 2.1. The court management system is modernised</i>	<ul style="list-style-type: none"> % of the State budget allocated to the justice sector Accountability system in the management of the courts is introduced 	<ul style="list-style-type: none"> Government budget allocated to the justice sector Implementation and monitoring execution reports of the Multi-Year Judicial strategy 	<ul style="list-style-type: none"> The Mongolian authorities are ready to increase the budget dedicated to the justice Recommendations of the European Committee on Legal Co-operation (CDCJ) are followed
	<i>Sub-result 2.2. The court procedures are simplified</i>	<ul style="list-style-type: none"> Number of pending cases in courts is reduced The duration of the justice decisions is reduced Number of appeal court is reduced 	<ul style="list-style-type: none"> Government budget allocated to the recruitment and to the salaries of the judges and the clerks Implementation and monitoring execution reports of the Multi-Year Judicial strategy Digital strategy report 	<ul style="list-style-type: none"> The digitalization process of the judiciary remains a key priority The compatibility of the digitalization of the judiciary with the other State institutions and legal professions is ensured
	<i>Sub-result 2.3. The rules concerning the career of judges are reformed</i>	<ul style="list-style-type: none"> Number of candidates and level of selection for the entry of the judiciary system Performance evaluation of the judges, disciplinary actions National legislation in the field of judiciary is in place and/or amended in line with international standards Number of judges trained 	<ul style="list-style-type: none"> The entry system in the judiciary is revised Performance assessment yearly reports of the judges issued by the JGC Number of disciplinary cases registered by the JDC JGC yearly report 	<ul style="list-style-type: none"> The independence and the transparency of the judiciary remain a key priority of Mongolian authorities Recommendations of the TAIEX experts are followed
Mandatory results/outputs by components	Component 3: Promote accessibility and raise confidence in justice			
	<i>Sub-result 3.1. The decrease of the disputes and the use of mediation and conciliation procedures are promoted</i>	<ul style="list-style-type: none"> Number of the overall justice disputes is reduced Number of pending cases in courts is reduced 	<ul style="list-style-type: none"> The conciliation and the mediation legislations are revised Website www.shuukh.mn (database of judiciary proceedings) 	<ul style="list-style-type: none"> Commitment of the overall actors to cooperate and to work together Mongolian citizens believe in

		<ul style="list-style-type: none"> • The duration of justice decisions is reduced • The number of mediation and conciliation procedures is increased • Citizen's satisfaction is increased 	<ul style="list-style-type: none"> • Public surveys on citizens satisfaction 	the non-judicial case resolution procedures
	<i>Sub-result 3.2. The legislation linked to the introduction of digitalisation process are reviewed (3.2).</i>	<ul style="list-style-type: none"> • The legal framework on e-signature, on legal on access to data, and on data protection is prepared and approved and is in compliance with EU-standards in the field • % of individuals who reported increased satisfaction with the accessibility to justice services (disaggregated by sex, age, location, disability status) is increased 	<ul style="list-style-type: none"> • Compliance and assessment reports from relevant international organisations such as OSCE/ODIHR and UN treaty monitoring bodies • Public surveys on citizens satisfaction 	<ul style="list-style-type: none"> • The Parliament is committed to adopt national legislation in compliance with international standards • The digitalization strategy is comprehensive and allows administrative simplification as well and a fair and transparent justice system
	<i>Sub-result 3.3. Raising confidence in justice is supported</i>	<ul style="list-style-type: none"> • % of the population who perceive the overall quality of justice is increased • Number of complaints received for corruption is reduced • Number of non-ethical cases registered by the JDC • Status of development of a judicial gender-responsive sector policy 	<ul style="list-style-type: none"> • Public surveys on citizens satisfaction • Score in World Justice Index • Transparency International Corruption Perceptions Index. • Anti-Corruption Report issued by the Independent Authority against Corruption • JDC monitoring Report 	<ul style="list-style-type: none"> • Ethics in the judiciary remains a key priority of Mongolia • Exemplary disciplinary sanctions are taken in case of inadequate behaviour of judges

Annex 2: List of relevant Laws and Regulations and policy documents

1. Strategies

1. ***Multi-annual Indicative Programme 2021-2027***
http://ec.europa.eu/international-partnerships/system/files/mip-2021-c2021-9051-mongolia-annex_en.pdf
2. ***Multi Indicative Programme 2014-2020 for EU Development assistance***
https://www.eeas.europa.eu/delegations/mongolia/multi-annual-indicative-programme-mongolia-2014-%E2%80%93-2020_en

2. Acts and regulations

1. ***The 2019 Constitution of Mongolia (Pre-2019 amendments)***
https://www.conscourt.gov.mn/?page_id=842&lang=en
2. ***The 2019 Amendments to the Constitution of Mongolia***
https://gratanet.com/laravel-filemanager/files/3/Legal%20alert_Constitution_final.pdf
3. ***The law of Mongolia on the Constitutional Court (Tssets)***
https://www.conscourt.gov.mn/?page_id=850&lang=en
4. ***The law on Constitutional Court procedure***
https://www.conscourt.gov.mn/?page_id=851&lang=en
5. ***Mongolian Legal Portal***
<https://legalinfo.mn/en>
6. ***Overview of the Mongolian Legal System and Laws***
https://www.nyulawglobal.org/globalex/Mongolia_Research1.html

A package of Laws on Courts initiated by the President of Mongolia passed by the Parliament and came into force from April 15, 2013. These newly adopted laws include Law on Courts, Law on Judicial Administration, Law on Legal Status on Lawyers, Law on Legal Status Citizens Representatives to the Court and Law on Mediation and Conciliation. Some of them have been amended since this date.

7. ***Law on Courts, on Judicial Administration and on the Legal Status of Judges of Mongolia, 2020***

The purpose of this law is to regulate relations concerning the legal basis for judicial system, organisation, powers and operation, and establishing the guarantees for exercising the judicial power. This law, includes judicial independence, creation of proper workload and ensuring the principles of transparency, and adjustments to reduce the internal sovereignty of the Court. In order to ensure Independence of the judiciary this law focuses on complex of organisational guarantees; economic, political, legal towards and security trends. According the new, law the courts except the Supreme Court will be established by a constituency basis such as size of territories, location, and population density and depending on the number of cases or disputes decided. Primary and appellate courts are established on specialised types of cases such as criminal, civil and administrative matters.

8. *Law on the Legal Status of Judges*

The purpose of this law is to regulate the relations concerning the legal status of judges, including the qualification and requirements for judges with a function to exercise the judicial power, the powers of judges the impartiality judges and its guarantees. General qualification and requirements for judges is determined at each level of court stage. Candidates who meet the requirements set in the law, with relevant experience on judiciary such as lawyers, prosecutors, judges and law school professors can nominate for a judge position.

Ensuring social and economic guarantees of Judges, following provisions set in the law such as judges' salary will be increased by two percent every year from the fifth year of his or her service; under no circumstances the parliament shall not reduce the amount of salary, benefits and bonuses paid to judges; and life and accident insurance premiums are responsible for the state budget.

9. *Law on legal status of Lawyers*

Purpose of this law is to set forth the legal grounds for legal status of lawyers, licenses for participating on professional activities, professional reputation and accountability system, and directions and organisation of professional self-governing institution for lawyers. According to this law, it is established the Lawyers association / BAR association/, self-governing professional institution, and every lawyer who passed the professional exam, regardless of his or her position shall be a member of this association. Lawyers Association has a power to organise lawyer's examination, issue the license for professional activities, continuous training on professional activities and approve rules on lawyers' activities, jointly accredits law school with the central government organisation, make a conclusion on candidates who nominated for judge position and impose a liability to advocate, judges, prosecutors who conducted malpractice.

10. *Law on Judicial administration*

Purpose of this law is regulating the relations concerning the functions, organisation, operational principles of the judicial administration, and to determine the legal status of judicial administrative personnel. The General Judicial Council shall be composed of five members whose serve on full time basis and their term of office shall be for three years. The General Judicial Council shall have administrative office. The General Judicial Council's basic form of operation is the Council sessions and council session will be held at least twice a month. Members of the General Judicial. Council will be nominated from the all levels of court. According to Law on Judicial administration, Judicial Qualification Committee shall consist of nine part-time members including lawyers and academics and prohibited certain activities of committee.

11. *Law on legal status of Citizen's representatives to Court*

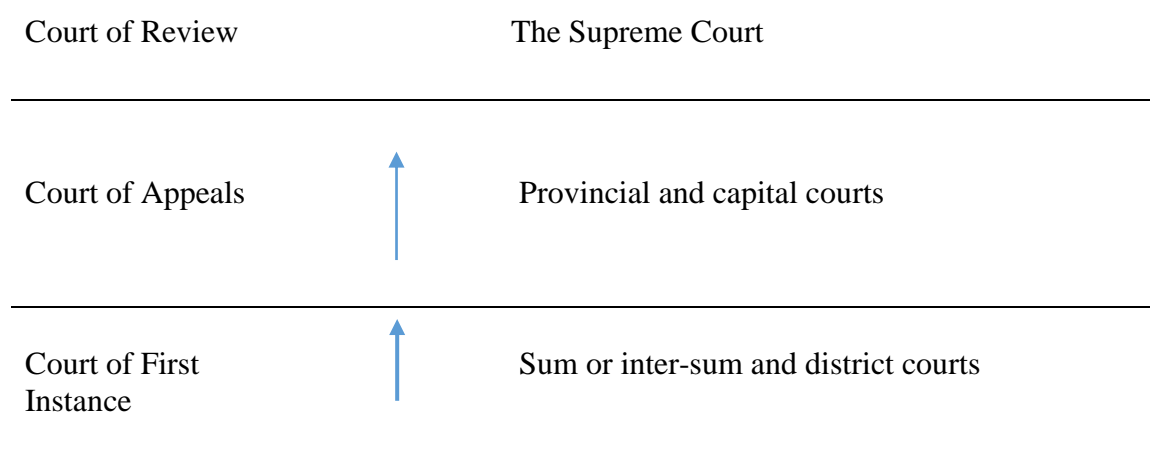
Citizen's representatives are required to be legally capable citizens of Mongolian who attained age of 25; to be a permanent resident in the territory under jurisdiction of respective court of first instance; have no criminal record; not be a participant in either criminal, civil or administrative case proceedings at the time of selection. Any other conditions shall not be required to Citizen's representatives. If citizen's representatives have interest's conflict with the case parties, so they are not allowed to take a part on a trail. Also, a Member of Parliament, judges, prosecutors, advocates and certain officials are prohibited to elect as a citizen's representatives to Court. Certain activities are prohibited for citizen's representatives such as abandon and leaving the court hearing or not attending it without any respectful reasons; not enforcing the rules of court hearing; visibly supporting the case parties and meeting with an either parties of the case; collecting the evidence concerning the case; disclosing any confidential information of the state, organisation or an individual; and providing any information to the a mass media with in regard to be those attended by the citizen's representatives.

12. Law on Mediation and Conciliation

The purpose of this law shall be to determine a legal basis for settling the legal disputes through non-judicial methods with a support from the mediators and to regulate the relations concerning the implementation of mediation and conciliation. Therefore mediation and conciliation shall be applied to the cases related to the commercial and other economic activities, civil law disputes, individual labor disputes and family relations. Court based mediation and conciliation is one component of judiciary. General Judicial Council shall be responsible for organising this activity, and related costs shall be included in the court budget. The General Judicial Council shall establish the Council of Mediators on part-time basis with functions of organising a task for selection of mediators, certification, preparation and retraining.

3. Overview of the Court system in Mongolia

The Supreme Court of Mongolia is the highest judicial body of Mongolia and the court of review. There are 117 courts and around 510 judges nationwide.



The Supreme Court of Mongolia is comprised of three chambers: the Criminal Case Chamber, the Civil Case Chamber, and the Administrative Case Chamber. The Judicial Training, Research and Information Institute is an affiliated organization under the Supreme Court.