

LAW OF MONGOLIA ON THE LEGAL STATUS OF HUMAN RIGHTS DEFENDERS

The 2nd of April, 2021

Ulaanbaatar

CHAPTER ONE GENERAL PROVISIONS

Article 1. Objective of the Law

The objective of this law is to define, recognize, promote, respect, protect rights of human rights defenders, provide working condition and collaborate with human rights defenders, and regulate structure, organization and operation of Committee on Human Rights Defenders

Article 2. Legislation on the Legal Status of Human Rights Defenders

2.1. Legislation on the legal status of human rights defenders shall consist of the Constitution of Mongolia, Law on the National Human Rights Commission of Mongolia, this law, and other legislative acts adopted in compliance with these laws.

2.2. If provisions of this law is conflicted with an international treaty to which Mongolia is a party, the provisions of the international treaty shall prevail.

Article 3. Scope of the Law

3.1. This law shall regulate the legal status of human rights defenders who have conducted or who are conducting human rights protection activities in the territory of Mongolia.

3.2. Human rights protection activities conducted by a national of Mongolia in the foreign territory shall be regulated international treaties to which Mongolia is party.

Article 4. Definitions

4.1. The terms used in this law shall have the following meanings:

4.1.1. "human rights defender" means any individual who acts separately or in association with others to conduct human rights protection activities;

4.1.2. "human rights protection activities" means protection of human rights by promoting the realization of human rights and freedoms and protecting and respecting human rights and generally recognized norms and principles of international law through non-violent and peaceful means against acts or omission causing human rights violation;

4.1.3 “protecting the rights of human rights defenders” means state organizations’ duty to prevent state, person, legal entity or entity unified under specific interest from violating rights and freedoms of human rights defenders, and to restore violated rights of such person and grant compensation for the damage or loss resulted;

4.1.4. “respecting the rights of human rights defender” means the duty of state organizations, person or legal entities to refrain from interfering or obstructing legitimate acts of human rights defender and abstain to unlawfully affect the rights and freedoms of such person;

4.1.5. “violating the rights of human rights defenders” means acts and omissions committed in connection to the human rights protection activities carried out by a human rights defender against the human rights defender or his/her family members, cohabitate, relative or legal representative in forms of insult, defamation, deception, fraud, any discriminative act, violence, dissemination of false rumors, or call for refusal of activities of human rights defenders, coercion, use of force or threatening by use of force, unlawful surveillance, harming life and damaging health or property;

4.1.6. “risk assessment” means a conclusion based on an assessment conducted to identify the level of threat and risk that occurred to a human rights defender and his/her family members, legal guardian, cohabitate, relative and legal representative and to evaluate if further protection measures are required.

Article 5. Main Principles of Human rights protection activities of Human Rights Defender

5.1. a human rights defender shall adhere to the following principles:

5.1.1. Abide the Constitution and other laws;

5.1.2. Value the justice and humanity;

5.1.3. Avoid the corruption and conflict of interest;

5.1.4. non-discrimination;

5.1.5. Respect honor, reputation, rights, and legal interests of others.

CHAPTER TWO

RIGHTS, FINANCING, AND PROHIBITION FOR HUMAN RIGHTS DEFENDERS

Article 6. Rights of human rights defenders

6.1. Human rights defender shall have the following rights:

6.1.1. to voluntarily take part in activities for promoting and protecting human rights and freedoms that are enshrined in the Constitution of Mongolia, laws, and international treaties;

6.1.2. to develop, discuss new ideas and principles of human rights, raise public awareness thereof and advocate for their recognition;

6.1.3. to assemble in any form, to establish a non-governmental organization, a coalition, an association, a group, or a union and participate in activities thereof with the intention to protect and promote human rights and freedoms;

6.1.4. to communicate and cooperate with national, international and regional human rights bodies and networks in that operate to protect human rights;

6.1.5. to receive, seek, find, know, publicize, keep, and share information necessary for protecting human rights and freedoms from the state organizations and legal entities, unless such information is confidential by legislation;

6.1.6. to keep the source of information confidential until an effective remedy and reparation for the human rights violation are completed for the individual concerned if the information was obtained in the course of protecting human rights and freedoms of such individual;

6.1.7. to draw public attention, draft specific proposal, organize a discussion, deliver the proposal to legislative authorities, to conduct an assessment of implementation on laws and policy documents, and to offer necessary recommendations in order to ensure that draft law is in line with principles of the human rights and freedoms

6.1.8., to lodge complaint to and demand accountability from state organizations and public officials in relation to their obligations to fulfill and protect human rights and freedoms, and draw their attention to the violations of human rights and unlawful actions, and inform of such matter to others;

6.1.9. to represent a person based on the consent issued by the person to promote and protect human rights and freedoms;

6.1.10. to refer a complaint about violations of human rights and freedoms perpetrated by state organizations and legal entities, to the competent international human rights body;

6.1.11. to be an observer on the process of a trial and public hearing unless otherwise specified in the law, and express an opinion on the status whether state organizations and public officials are complying with relevant laws and international treaties;

6.1.12. to be protected from interference during human rights protection activities, to have violated rights restored, to be provided with an effective remedy for his/her materialistic and non-materialistic damages, and to receive compensation;

Article 7. Financial openness and transparency of human rights defenders

7.1. All financial resources and sources relating to activities of human rights defenders shall be transparent and open. His/her financial resources shall be consisted from below:

7.1.1 Donation and assistance from person or legal entity, unless otherwise specified by law;

7.1.2. Monetary and other types of financial support from the State in accordance with legislation;

7.1.3. Other sources prohibited by law.

7.2. Following resources and sources are prohibited in financing of activities of human rights defenders:

7.2.1. Receiving funds from international intelligence service, their cover organizations, organizations or person that conduct activities harming the national unity or money laundering, terrorist or extremist activities, and funds from unknown donors are prohibited;

7.2.2. Seeking, receiving and spending of financial resources and sources by other means that are not authorized by law are prohibited.

Article 8. Prohibitions for human rights defenders

8.1 The following actions and omissions shall be prohibited for human rights defenders:

8.1.1. to act or conduct activities in violent and non-peaceful manner or call others to act so;

8.1.2. to use activities of human rights defender for their private interests;

8.1.3. to defame human rights, freedoms, honor, reputation and fame at the working field of others.

CHAPTER THREE

COMMON OBLIGATIONS OF STATE ORGANIZATIONS AND OFFICIALS, AND LEGAL ENTITIES

Article 9. Common obligations

9.1 State organizations and officials, and legal entities shall have the following common obligations:

9.1.1 to recognize the rights of human rights defenders and not to violate their rights,

9.1.2 to respect their activities;

9.1.3 to enable an environment where human rights defenders can undertake their activities in non-violent and peaceful ways;

9.1.4 to provide relevant information;

9.1.5 to refrain from interfering in any way with human rights defenders without a grounds specified in law;

9.1.6. to integrate protection of activities of human rights defenders in their internal procedures, implement such regulations, and conduct relevant training for their employees;

9.1.7. to deliver a response in writing addressing the interference with human rights defenders and complaint resolution to the Complainant and Committee on Human Rights Defenders

9.2. Police organization shall interfere any assault directed toward human rights defenders and should provide protection upon their request, or shall provide protection to human rights defender under the Law on Witness and Victim Protection based on the risk assessment conclusion referred in Article 11.8 of this law.

9.3 All necessary measures should be taken in the scope of the organization's functions if the rights of human rights defenders are violated.

CHAPTER FOUR

PROTECTION MECHANISM FOR HUMAN RIGHTS DEFENDERS

Article 10. Committee on Human Rights Defenders

10.1 Under National Human Rights Commission (hereafter the "Commission"), there shall be non-full-time the Committee on Human Rights Defenders (hereinafter the "Committee") with a mandate to issue a conclusion on whether rights of human rights defenders have been violated

10.2 Chairperson of the Committee shall be Commissioner of the National Human Rights Commission of Mongolia in charge of human rights defenders and shall ensure integrated management and organization of the Committee's activities.

10.3 The Committee shall work independently and fulfil functions below:

10.3.1 to receive complaint or information regarding human rights violations of human rights defenders;

10.3.2 to collect evidence, fact, information relating to the complaint;

10.3.3 to describe needs and importance of protection of human rights defenders and provide risk assessment in accordance with Article 11.8 of this law;

10.3.4 to submit conclusion based on risk assessment to the Commission;

10.3.5 to conduct analysis and research on implementation of this law and status of human rights defenders and illustrate in annual human rights report of Commission;

10.3.6 to create database on complaints.

10.4 The Committee shall consist of six members, two of whom are directly appointed in compliance with Article 11.4 of this law, and four of whom are selected from the representatives of nonprofit organizations. Selection process shall be under public hearing and members shall be approved by the Commission.

10.5 The Committee's composition shall ensure gender equity and reflection of the diversity of human rights defenders who are actively acting at the national level.

10.6 The Chairperson and members of the Committee shall respect their office in exercising their freedom of speech, expression, and religious belief.

10.7 Chairperson and members of the Committee shall suspend their membership of political parties.

10.8 Financial source of the Committee shall be included in the budget of Commission and regulation regarding the compensation of members shall be adopted by the Commission.

10.9 Operational procedure of the Committee shall be adopted by the Commission

Article 11. Selection of members of the Committee

11.1. A candidate for a member of the Committee to be selected from representatives of nonprofit entities shall meet the following requirements:

11.1.1. to have at least seven years of experience in the field of human rights protection nationally or internationally;

11.1.2. to have knowledge and experience on international human rights protection system and legal norms;

11.1.3. did not hold a position in political parties for last 5 years;

11.2. The Committee members whose candidacy are from representatives of nonprofit entities shall be selected according to the following steps:

11.2.1. The Commission shall establish a working group composed of representatives from the Ministry of Justice and Home Affairs, Commission, Civil Service Council,

National Committee on Gender Equality and Civil Society Council under the Commission and conduct selection process;

11.2.2. The Working group shall launch the vacancy announcement through public media for 30 days;

11.2.3 The Working group shall publish the application information, except private information, on Commission's website within three working days after the deadline specified Article 11.2.2

11.2.4. The Working group shall receive questions and proposals to candidates from interested entity for 14 days after publicizing the candidate applications mentioned in Article 11.2.3;

11.2.5. The Working Group shall organize a public hearing with attendance of candidates who meet the requirements specified in Part 11.1 of Article 11 of this law and shall run a discussion about such candidates;

11.2.6. After the public hearing, within 5 working days, the Working Group shall make appoint members of the Committee among candidates with highest scores based on the confidential voting to the vacancy seat;

11.3 The Commission will adopt the regulation on appointment of members of the Committee.

11.4 Mongolian Bar Association, and the Association of Mongolian Advocates shall separately select their representing members by their respective conferences and propose them to the Commission meeting

11.5. Candidates who were selected according to the rules stated in article 11.2 and 11.3 of this law shall be confirmed as members of the Committee by the meeting of the Commission.

11.6 Member of the Committee shall be appointed for single term of 3 years.

11.7 The Committee shall consider the dismissal of a member of the Committee before the end of his/her term by its meeting on the following grounds:

11.7.1. having been appointed or elected as a public political servant, or as an administrative or special public servant;

11.7.2. has requested for his/her dismissal explaining that such member is unable to actively participate in the Committee operations due to health conditions or any other legitimate reasons;

11.7.3. a crime has been proved to be committed by a member, and a final binding judgement to that effect by the Court has come into force.

11.8. The Commission shall approve the methodology and procedure for issuing conclusions on risk assessment specified in 4.1.6 of this Law.

Article 12. Unit under the Committee

12.1 The Committee shall have a unit to assist members of the Committee. structure and the number of staff shall be decided by the Commission.

12.2 Staff in the unit under the Committee shall be public administrative servant.

12.3 The unit under the Committee shall be a part of Secretariat of the Commission and fulfil functions referred in Article 10.3 of this law.

Article 13. Liability for violating the Law

13.1 If the action of breach of this by an official is not considered as having criminal nature, it shall be held accountable under the Law on Civil Service.

13.2 Any individual and business entity that violated this law shall be held accountable under Criminal Code or Infringement Code.

Article 14. Entry into force

14.1. This Law shall enter into force starting from the 1st date of July, 2021.