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Mongolia

Decision adopted by the Committee on the Human Rights of Parliamentarians at its 167th session (virtual session, 30 January to 11 February 2022)



© Erdenebat Jargaltulga

MNG-08 – Erdenebat Jargaltulga

Alleged human rights violations

- ✓ Lack of due process at the investigation stage
- ✓ Lack of fair trial proceedings
- ✓ Failure to respect parliamentary immunity
- ✓ Arbitrary arrest and detention

A. Summary of the case

Mr. Erdenebat Jargaltulga (“Mr. Erdenebat”), a member of the State Great Hural since 2012, was arrested at his home on 13 June 2020 and detained ahead of the parliamentary elections in Mongolia, which took place on 24 June 2020. Mr. Erdenebat was allegedly detained on the grounds that he had failed to pay an unprecedented bail sum, which amounted to 10 billion Mongolian Tugriks.

The complainants allege that Mr. Erdenebat’s arrest and detention violated his parliamentary immunity, as the Prosecutor General had not requested parliament to lift his immunity or suspend his mandate. The complainants also allege that Mr. Erdenebat’s arrest and detention should have been authorized by the General Electoral Commission, given that he was a candidate in the parliamentary elections. Mr. Erdenebat was nevertheless able to run in the elections from his prison cell and won a seat in the State Great Hural.

Case MNG-08

Mongolia: Parliament affiliated to the IPU

Victim: Male majority member of parliament

Qualified complainant(s): Section I.1.(a) and (c) of the Committee Procedure (Annex I)

Submission of complaint: June 2020

Recent IPU decision: October 2020

Recent IPU Mission(s): - - -

Recent Committee hearing(s): - - -

Recent follow-up:

- Communication from the authorities: Letter from the Vice-Chairman of the State Great Hural (no information on the case) (February 2021)
- Communication from the complainants: June 2021
- Communication to the authorities: Letter to the Vice-Chairman of the State Great Hural (June and December 2021)
- Communication to the complainants: July 2021

After a six-month investigation, Mr. Erdenebat's trial was held on 3 July 2020 and he was convicted three days later to a six-year prison term for misappropriation of funds and abuse of power. In its ruling of 6 July 2020, the court argued that the authorities did not require the authorization of the General Election Commission to detain Mr. Erdenebat, considering that the Law on Parliamentary Elections, which prohibits the investigation, arrest and detention of a candidate without the permission of the General Election Commission, had entered into force on 23 December 2019, therefore after the Prosecutor had started a criminal investigation against Mr. Erdenebat on 19 September 2019.

In a letter dated 18 September 2020, the parliamentary authorities stated that any criminal investigation, arrest and detention of a parliamentary candidate was prohibited in the absence of the General Election Commission's consent, adding that this provision of the law had not been observed during the procedure that had led to Mr. Erdenebat's arrest and subsequent detention. The parliamentary authorities also added that, according to the Law on the State Great Hural, parliament must discuss at its relevant standing committee all requests received from the Prosecutor's Office about the lifting of the parliamentary immunity of one of its members. The authorities also indicated that, at the time of his arrest, Mr. Erdenebat's parliamentary term had not yet expired and confirmed that he had been elected from his prison cell during the parliamentary elections of June 2020.

The complainants allege that the charges against Mr. Erdenebat are politically motivated and that his conviction had been orchestrated to remove him from the political arena.

B. Decision

The Committee on the Human Rights of Parliamentarians

1. *Recalls* that the complaint concerning the situation of Mr. Erdenebat, a member of the State Great Hural, was declared admissible by the Committee on the Human Rights of Parliamentarians under its Procedure on 31 October 2020;
2. *Thanks* the Mongolian parliamentary authorities for the information provided about this case in their letter of 18 September 2020; *regrets* the lack of response from the parliamentary authorities to its letters and requests for information sent since late 2020, all the more so as they had initially expressed concern in this case about lack of respect for the electoral law and Mr. Erdenebat's parliamentary immunity; and *reiterates* in this regard its request to the State Great Hural for information on whether or not it had discussed the lifting of Mr. Erdenebat's immunity;
3. *Is deeply concerned* at the continued detention of Mr. Erdenebat after the conclusion of an expeditious trial in which his right to fair trial proceedings appear to have been violated and where impartiality and due process guarantees seem to have been disregarded; and *points out* that the circumstances in which Mr. Erdenebat was detained and the lack of response from the Mongolian authorities could give weight to the complainants' allegations that Mr. Erdenebat's prosecution and conviction are motivated by reasons other than legal;
4. *Wishes*, therefore, also to receive a response from the State Great Hural on the steps taken to protect Mr. Erdenebat's parliamentary mandate and its views on the allegations of the complainants relating to the political dimension of this case;
5. *Requests* the Secretary General to convey this decision to the relevant authorities, the complainants and any third party likely to be in a position to supply relevant information;
6. *Decides* to continue examining this case.